

## Online Series

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# Border Opening and Human Rights Violations in North Korea

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There are mounting concerns that North Korean residents may face human rights violations as North Korea has just reopened its borders, expanding the scope and who is allowed to enter. The first concern is that when some North Korean overseas workers, students studying abroad, sojourning employees return to North Korea, there could be severe human rights abuses of ideology and conscience under Reactionary Ideology and Culture Rejection Act. Second, acts that are likely to subject to punishment include phone calls or making contact with someone, handing over money and valuables to brokers, and taking photos or filming North Korea's check points or soldiers around the North Korea-China border to escape the country in accordance with Crime of Illegal International Communications and Public Report Act. Third, It is of great concern that North Koreans' human rights are at risk of being violated due to Chinese laws. For example, China's Land Border Law, enacted on October 23, 2021, allows its police officers or soldiers to use weapons when cracking down on North Koreans trying to flee their home country.

On August 27, 2023, National Emergency Quarantine Command of North Korea approved the return of its citizens who had stayed abroad.<sup>1)</sup> According to its statement, the kind of border opening is not sweeping, but rather limited to North Koreans living abroad. This does not necessarily mean that border opening will maintain its current scope: it is expected to

encompass more human and physical subjects. It is around 2020 that both North Korea and China started enacting laws and regulations related to North Korean human rights. As these laws are set to be implemented in earnest, with some North Koreans continuing to return to their home country, it is worried that North Koreans become more vulnerable to human rights violations.

### **Infringement on North Korean Returners' Freedom of ideology and Conscience**

Around 2020, North Korea enacted a range of laws to control ideology and information access. To begin with, it enacted Public Report Act in 2019, which stipulates North Koreans are supposed to report crimes that fall under the category of 24 crimes and illegal acts (Article 15) and if they do not abide by it, they are subject to administrative punishment and criminal punishment (Article 34 and 35). In terms of control over ideology and information, North Koreans are supposed to report any illegal acts, which include watching TV programs hostile to the North Korean regime, possessing propaganda leaflets to North Korea and even using or distributing such materials, and taking anti-Pyongyang propaganda publications to North Korea to produce, copy, store, distribute, or watch them (Article 15 Subparagraph 6 and 9). Later, North Korea enacted a succession of laws, including Reactionary Ideology and Culture Rejection Act (2020), Youth Education Guarantee Law (2021), and Pyongyang Cultural Language Protection Law (2023). Reactionary Ideology and Culture Rejection Act emphasizes denouncing reactionary ideology is critical to solidifying socialism and safeguarding socialist institutions under North Korean regime (Article 3). Those who violate Reactionary Ideology and Culture Rejection Act are subject to stern legal sanctions, sanctions that cannot be found in any other North Korean laws and regulations. Those do not abide by the Act could face the severest form of punishment depending on the seriousness of a crime, regardless of a perpetrator's social status (Article 7). Reactionary Ideology and Culture Rejection Act states that if necessary, a violator could face the maximum penalty, which is capital punishment (Article 28 and 29). It is expected that when some North Korean overseas workers, students studying abroad, sojourning employees return to North Korea, there could be severe human rights abuses of ideology and conscience as the authoritarian regime start to execute the aforementioned laws in earnest. Those who return to North Korea may face punishment and will be forced to receive ideology education, some media predict.<sup>2)</sup>

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1) A notice from National Emergency Quarantine Command (the Korean Central News Agency, August 26, 2023)

## Punishment on Those Trying to Flee North Korea for Making Phone Calls or Contacts, and Taking Photos or Filming Facilities

Under the Kim Jong-un regime, North Korea has continuously strengthened its control and punishment over those trying to escape North Korea. In 2009, it amended its criminal law and added monetary penalty to it, with a view to applying such law to those who commit an anti-state and anti-national crime. This means the regime views an attempt to flee North Korea as treason against the Fatherland, one of the anti-state and anti-national crimes. In addition, Crime of Illegal International Communications was created through amendment of criminal law in 2015. It is also worth noting that in Public Report Act enacted 2019, acts that were made to regulate those trying to flee the authoritarian state were described in detail and the scope of punishable acts was expanded. First, one of the acts supposed to be reported is “an act of illegally making a phone call or meeting someone in person, or trying to hand over money or things (Article 15 Subparagraph 7). While North Korea’s criminal law sees making a phone call as the only punishable act in terms of escaping North Korea, making any type of contact with someone is subject to punishment under Public Report Act. In addition, the Act also states that an act of handing over money or other things is supposed to be reported. These moves can be interpreted as a response by North Korea because its authorities are now aware of the fact that some North Korean defectors living in South Korea are sending money or other things to their family members in North Korea through brokers. Second, Public Report Act also states that an act of taking photos or filming important objects and facilities including military installations is supposed to be reported since such activity can demean North Korea and its authorities (Article 15 Subparagraph 8). In particular, North Korea defines an act of taking photos or filming check points and/or North Korean soldiers around the North Korea-China border as reportable act, citing such activity can degrade its prestige and demean its regime. Now that North Korea has just reopened its border, which was contained since the start of the pandemic, the number of people trying to escape North Korea is expected to swell. Should such scenario be materialized, crackdown and punishment on those making phone calls or contacts with someone, handing over money and/or other things to brokers, or taking photos or filming facilities in the border area are highly likely to take place under North Korea’s criminal law and Public Report Act.

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2) “Those forced to return to North Korea may face ideology education and severe punishment,” Radio Free Asia, August 24, 2023, <[https://www.rfa.org/korean/news\\_indepth/nkchinaborder-08242023144152.html](https://www.rfa.org/korean/news_indepth/nkchinaborder-08242023144152.html)> (Search date: August 28, 2023)

## Using Weapons by Chinese Soldiers and Police to Curb Those Trying to Escape North Korea

There are growing concerns that North Korean residents may face human rights violations not only by North Korean laws but by Chinese laws. China enacted Land Borders Law of the People’s Republic of China on October 23, 2021. The law includes 62 provisions and stipulate rules pertaining to an adjacent country’s demarcation and check, managing land borders as well as border area, international cooperation on land border affairs, and legal liability. The Land Border Law went into effect as of January 1, 2022 (Article 62). One of the most worrisome provisions in the Law is Article 38, which states that “it is not allowed for anyone to illegally cross borders... If an illegal border crosser commits a crime, refuses to be arrested or commits other acts of violence, thereby endangering the safety and property of others, law enforcement officers may use weapons in accordance with law.”<sup>3)</sup> This provision allows Chinese soldiers and police officers to use weapons to crack down on those who make an attempt to flee North Korea. It is deeply concerned that advances in protecting North Korean defectors could roll back. China should not allow Chinese law enforcement officers to use weapons against North Koreans who leave their home country to enjoy freedom.

<Table 1> Laws pertaining to punishment on those trying to escape North Korea

Type of law	Content
Criminal law (amended on May 17, 2022)	Article 42 (monetary penalty) The provision of the Article 42 states that those who commit an anti-state and anti-national crime are subject to monetary penalty. The amount of penalty depends on the severity of a crime, which will ultimately be decided by a court.
	Article 63 (treason against the Fatherland) Those who commit treason against the Fatherland will be sentenced to more than five years of hard labor. If a perpetrator commits high treason, they

<sup>3)</sup> Article 38 General provisions

Any individual is prohibited from crossing the border illegally. When illegal border crossers are under control, they shall be dealt with by the public security organizations and other competent departments; if illegal border crossers are members of the armed forces, they shall be dealt with by the relevant military organization. If an illegal border crosser commits a crime, refuses to be arrested or commits other acts of violence, thereby endangering the safety and property of others, law enforcement officers may use weapons in accordance with law.

	<p>will face weapon-manufacturing hard labor or capital punishment and confiscation of property.</p> <p>Article 260 (illegal border entry)</p> <p>Those who enter the North Korean borders secretly are subject to labor training.</p> <p>If a person commits a serious crime of secret border entry, they are subject to less than five years of hard labor.</p> <p>Article 261 (illegal communications around the borders)</p> <p>Those who illegally made some communications around the North Korean borders are subject to labor training.</p> <p>If a person commits a serious crime of illegal communication around the borders, they are subject to less than five years of hard labor.</p>
<p>Public Report Act (enacted on April 28, 2019)</p>	<p>Article 15 (what should be reported)</p> <p>North Korean residents, organizations, companies, and groups are supposed to report the following crimes and illegal acts.</p> <p>7. An act of illegally making phone calls or meeting someone in person or, handing over money or other things.</p> <p>8. An act of taking photos or filming objects and facilities that are of national importance, which may degrade North Korea's prestige and demean its regime</p> <p>Article 34 (administrative responsibility)</p> <p>In the following cases, those who should be held accountable will face administrative responsibility corresponding to the severity of a crime.</p> <p>1. Those who have not reported an illegal act even though they knew it.</p> <p>2. Those who made a false report</p> <p>3-6. Omitted</p> <p>Article 35 (criminal responsibility)</p> <p>If an illegal act that falls under the category of Article 34 amounts to a crime, those who should be held to account will face a criminal responsibility depending on the severity of a crime.</p>

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