

108TH CONGRESS
2^D SESSION

H. R. 4011

AN ACT

To promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

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To promote human rights and freedom in the Democratic
People's Republic of Korea, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “North Korean Human
3 Rights Act of 2004”.

4 **SEC. 2. TABLE OF CONTENTS.**

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
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- Sec. 4. Purposes.
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TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

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- Sec. 102. Support for human rights and democracy programs.
- Sec. 103. Radio broadcasting to North Korea.
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- Sec. 304. United Nations High Commissioner for Refugees.
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6 **SEC. 3. FINDINGS.**

7 Congress makes the following findings:

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

12 (2) The Government of North Korea attempts
13 to control all information, artistic expression, aca-

1 demic works, and media activity inside North Korea
2 and strictly curtails freedom of speech and access to
3 foreign broadcasts.

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

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

14 (5) According to the Department of State,
15 “[t]he [North Korean] Penal Code is [d]raconian,
16 stipulating capital punishment and confiscation of
17 assets for a wide variety of ‘crimes against the revo-
18 lution,’ including defection, attempted defection,
19 slander of the policies of the Party or State, listen-
20 ing to foreign broadcasts, writing ‘reactionary’ let-
21 ters, and possessing reactionary printed matter”.

22 (6) The Government of North Korea executes
23 political prisoners, opponents of the regime, some re-
24 patriated defectors, some members of underground

1 churches, and others, sometimes at public meetings
2 attended by workers, students, and schoolchildren.

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

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

16 (9) According to credible reports, including eye-
17 witness testimony provided to the United States
18 Congress, North Korean Government officials pro-
19 hibit live births in prison camps, and forced abortion
20 and the killing of newborn babies are standard pris-
21 on practices.

22 (10) According to the Department of State,
23 “[g]enuine religious freedom does not exist in North
24 Korea” and, according to the United States Com-
25 mission on International Religious Freedom, “[t]he

1 North Korean state severely represses public and
2 private religious activities” with penalties that re-
3 portedly include arrest, imprisonment, torture, and
4 sometimes execution.

5 (11) More than 2,000,000 North Koreans are
6 estimated to have died of starvation since the early
7 1990s because of the failure of the centralized agri-
8 cultural and public distribution systems operated by
9 the Government of North Korea.

10 (12) According to a 2002 United Nations-Euro-
11 pean Union survey, nearly one out of every ten chil-
12 dren in North Korea suffers from acute malnutrition
13 and four out of every ten children in North Korea
14 are chronically malnourished.

15 (13) Since 1995, the United States has pro-
16 vided more than 2,000,000 tons of humanitarian
17 food assistance to the people of North Korea, pri-
18 marily through the World Food Program.

19 (14) Although United States food assistance
20 has undoubtedly saved many North Korean lives and
21 there have been minor improvements in transparency
22 relating to the distribution of such assistance in
23 North Korea, the Government of North Korea con-
24 tinues to deny the World Food Program forms of ac-
25 cess necessary to properly monitor the delivery of

1 food aid, including the ability to conduct random site
2 visits, the use of native Korean-speaking employees,
3 and travel access throughout North Korea.

4 (15) The risk of starvation, the threat of perse-
5 cution, and the lack of freedom and opportunity in
6 North Korea have caused large numbers, perhaps
7 even hundreds of thousands, of North Koreans to
8 flee their homeland, primarily into China.

9 (16) North Korean women and girls, particu-
10 larly those who have fled into China, are at risk of
11 being kidnapped, trafficked, and sexually exploited
12 inside China, where many are sold as brides or con-
13 cubines, or forced to work as prostitutes.

14 (17) The Governments of China and North
15 Korea have been conducting aggressive campaigns to
16 locate North Koreans who are in China without per-
17 mission and to forcibly return them to North Korea,
18 where they routinely face torture and imprisonment,
19 and sometimes execution.

20 (18) Despite China's obligations as a party to
21 the 1951 United Nations Convention Relating to the
22 Status of Refugees and the 1967 Protocol Relating
23 to the Status of Refugees China routinely classifies
24 North Koreans seeking asylum in China as mere
25 "economic migrants" and returns them to North

1 Korea without regard to the serious threat of perse-
2 cution they face upon their return.

3 (19) The Government of China does not provide
4 North Koreans whose asylum requests are rejected
5 a right to have the rejection reviewed prior to depor-
6 tation despite its obligations under the 1951 United
7 Nations Convention Relating to the Status of Refu-
8 gees and the 1967 Protocol Relating to the Status
9 of Refugees.

10 (20) North Koreans who seek asylum while in
11 China are routinely imprisoned and tortured, and in
12 some cases killed, after they are returned to North
13 Korea.

14 (21) The Government of China has detained,
15 convicted, and imprisoned foreign aid workers at-
16 tempting to assist North Korean refugees, including
17 the Reverend Choi Bong Il, in proceedings that did
18 not comply with Chinese law or international stand-
19 ards.

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

1 (23) Between 1994 and 2003, South Korea has
2 admitted approximately 3,800 North Korean refu-
3 gees for domestic resettlement, a number small in
4 comparison with the total number of North Korean
5 escapees, but far greater than the number legally
6 admitted by any other country.

7 (24) Although the principal responsibility for
8 North Korean refugee resettlement naturally falls to
9 the Government of South Korea, the United States
10 should play a leadership role in focusing inter-
11 national attention on the plight of these refugees,
12 and formulating international solutions to that pro-
13 found humanitarian dilemma.

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

19 **SEC. 4. PURPOSES.**

20 The purposes of this Act are—

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

23 (2) to promote a more durable humanitarian so-
24 lution to the plight of North Korean refugees;

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

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

6 (5) to promote progress toward the peaceful re-
7 unification of the Korean peninsula under a demo-
8 cratic system of government.

9 **SEC. 5. DEFINITIONS.**

10 In this Act:

11 (1) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term “appropriate congressional com-
13 mittees” means—

14 (A) the Committee on International Rela-
15 tions of the House of Representatives; and

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

18 (2) CHINA.—The term “China” means the Peo-
19 ple’s Republic of China.

20 (3) HUMANITARIAN ASSISTANCE.—The term
21 “humanitarian assistance” means assistance to meet
22 humanitarian needs, including needs for food, medi-
23 cine, medical supplies, clothing, and shelter.

24 (4) NORTH KOREA.—The term “North Korea”
25 means the Democratic People’s Republic of Korea.

1 (5) NORTH KOREANS.—The term “North Kore-
2 ans” means persons who are citizens or nationals of
3 North Korea.

4 (6) SOUTH KOREA.—The term “South Korea”
5 means the Republic of Korea.

6 **TITLE I—PROMOTING THE**
7 **HUMAN RIGHTS OF NORTH**
8 **KOREANS**

9 **SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS**
10 **WITH NORTH KOREA.**

11 It is the sense of Congress that the human rights of
12 North Koreans should remain a key element in future ne-
13 gotiations between the United States, North Korea, and
14 other concerned parties in Northeast Asia.

15 **SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY**
16 **PROGRAMS.**

17 (a) SUPPORT.—The President is authorized to pro-
18 vide grants to private, nonprofit organizations to support
19 programs that promote human rights, democracy, rule of
20 law, and the development of a market economy in North
21 Korea. Such programs may include appropriate edu-
22 cational and cultural exchange programs with North Ko-
23 rean participants, to the extent not otherwise prohibited
24 by law.

25 (b) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to the President \$2,000,000 for each of
3 the fiscal years 2005 through 2008 to carry out this
4 section.

5 (2) AVAILABILITY.—Amounts appropriated pur-
6 suant to the authorization of appropriations under
7 paragraph (1) are authorized to remain available
8 until expended.

9 **SEC. 103. RADIO BROADCASTING TO NORTH KOREA.**

10 (a) SENSE OF CONGRESS.—It is the sense of Con-
11 gress that the United States should facilitate the
12 unhindered dissemination of information in North Korea
13 by increasing its support for radio broadcasting to North
14 Korea, and that the Broadcasting Board of Governors
15 should increase broadcasts to North Korea from current
16 levels, with a goal of providing 12-hour-per-day broad-
17 casting to North Korea, including broadcasts by Radio
18 Free Asia and Voice of America.

19 (b) REPORT.—Not later than 120 days after the date
20 of the enactment of this Act, the Broadcasting Board of
21 Governors shall submit to the appropriate congressional
22 committees a report that—

23 (1) describes the status of current United
24 States broadcasting to North Korea; and

1 the heads of other appropriate Federal departments and
2 agencies, shall submit to the appropriate congressional
3 committees a report, in classified form, on actions taken
4 pursuant to this section.

5 **SEC. 105. UNITED NATIONS COMMISSION ON HUMAN**
6 **RIGHTS.**

7 It is the sense of Congress that the United Nations
8 has a significant role to play in promoting and improving
9 human rights in North Korea, and that—

10 (1) the United Nations Commission on Human
11 Rights (UNCHR) has taken positive steps by adopt-
12 ing Resolution 2003/10 and Resolution 2004/13 on
13 the situation of human rights in North Korea, and
14 particularly by requesting the appointment of a Spe-
15 cial Rapporteur on the situation of human rights in
16 North Korea; and

17 (2) the severe human rights violations within
18 North Korea warrant country-specific attention and
19 reporting by the United Nations Working Group on
20 Arbitrary Detention, the Working Group on En-
21 forced and Involuntary Disappearances, the Special
22 Rapporteur on Extrajudicial, Summary, or Arbitrary
23 Executions, the Special Rapporteur on the Right to
24 Food, the Special Rapporteur on the Promotion and
25 Protection of the Right to Freedom of Opinion and

1 Expression, the Special Rapporteur on Freedom of
2 Religion or Belief, and the Special Rapporteur on
3 Violence Against Women.

4 **TITLE II—ASSISTING NORTH**
5 **KOREANS IN NEED**

6 **SEC. 201. REPORT ON UNITED STATES HUMANITARIAN AS-**
7 **SISTANCE.**

8 (a) REPORT.—Not later than 180 days after the date
9 of the enactment of this Act, and in each of the 2 years
10 thereafter, the Administrator of the United States Agency
11 for International Development, in conjunction with the
12 Secretary of State, shall submit to the appropriate con-
13 gressional committees a report that describes—

14 (1) all activities to provide humanitarian assist-
15 ance inside North Korea, and to North Koreans out-
16 side of North Korea, that receive United States
17 funding;

18 (2) any improvements in humanitarian trans-
19 parency, monitoring, and access inside North Korea
20 during the previous 1-year period, including progress
21 toward meeting the conditions identified in para-
22 graphs (1) through (4) of section 202(b); and

23 (3) specific efforts to secure improved humani-
24 tarian transparency, monitoring, and access inside
25 North Korea made by the United States and United

1 States grantees, including the World Food Program,
2 during the previous 1-year period.

3 (b) FORM.—The information required by subsection
4 (a)(1) may be provided in classified form if necessary.

5 **SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.**

6 (a) HUMANITARIAN ASSISTANCE THROUGH NON-
7 GOVERNMENTAL AND INTERNATIONAL ORGANIZA-
8 TIONS.—It is the sense of the Congress that—

9 (1) at the same time that Congress supports
10 the provision of humanitarian assistance to the peo-
11 ple of North Korea on humanitarian grounds, such
12 assistance also should be provided and monitored so
13 as to minimize the possibility that such assistance
14 could be diverted to political or military use, and to
15 maximize the likelihood that it will reach the most
16 vulnerable North Koreans;

17 (2) significant increases above current levels of
18 United States support for humanitarian assistance
19 provided inside North Korea should be conditioned
20 upon substantial improvements in transparency,
21 monitoring, and access to vulnerable populations
22 throughout North Korea; and

23 (3) the United States should encourage other
24 countries that provide food and other humanitarian
25 assistance to North Korea to do so through mon-

1 itored, transparent channels, rather than through di-
2 rect, bilateral transfers to the Government of North
3 Korea.

4 (b) HUMANITARIAN ASSISTANCE TO THE GOVERN-
5 MENT OF NORTH KOREA.—No department, agency, or en-
6 tity of the United States Government may provide human-
7 itarian assistance to any department, agency, or entity of
8 the Government of North Korea unless such United States
9 Government department, agency, or entity certifies in
10 writing to the appropriate congressional committees that
11 the Government of North Korea has taken steps to ensure
12 that—

13 (1) such assistance is delivered, distributed, and
14 monitored according to internationally recognized
15 humanitarian standards;

16 (2) such assistance is provided on a needs basis,
17 and is not used as a political reward or tool of coer-
18 cion;

19 (3) such assistance reaches the intended bene-
20 ficiaries, who are informed of the source of the as-
21 sistance; and

22 (4) humanitarian access to all vulnerable
23 groups in North Korea is allowed, no matter where
24 in the country they may be located.

1 (c) NONHUMANITARIAN ASSISTANCE TO THE GOV-
2 ERNMENT OF NORTH KOREA.—No department, agency,
3 or entity of the United States Government may provide
4 nonhumanitarian assistance to any department, agency, or
5 entity of the Government of North Korea unless such
6 United States Government department, agency, or entity
7 certifies in writing to the appropriate congressional com-
8 mittees that the Government of North Korea has made
9 substantial progress toward—

10 (1) respecting and protecting basic human
11 rights, including freedom of religion, of the people of
12 North Korea;

13 (2) providing for significant family reunification
14 between North Koreans and their descendants and
15 relatives in the United States;

16 (3) fully disclosing all information regarding
17 citizens of Japan and the Republic of Korea ab-
18 ducted by the Government of North Korea;

19 (4) allowing such abductees, along with their
20 families, complete and genuine freedom to leave
21 North Korea and return to the abductees' original
22 home countries;

23 (5) significantly reforming its prison and labor
24 camp system, and subjecting such reforms to inde-
25 pendent international monitoring; and

1 (2) humanitarian assistance to North Korean
2 women outside of North Korea who are victims of
3 trafficking, as defined in section 103(14) of the
4 Trafficking Victims Protection Act of 2000 (22
5 U.S.C. 7102(14)), or are in danger of being traf-
6 ficked.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—

8 (1) IN GENERAL.—In addition to funds other-
9 wise available for such purposes, there are author-
10 ized to be appropriated to the President
11 \$20,000,000 for each of the fiscal years 2005
12 through 2008 to carry out this section.

13 (2) AVAILABILITY.—Amounts appropriated pur-
14 suant to the authorization of appropriations under
15 paragraph (1) are authorized to remain available
16 until expended.

17 **TITLE III—PROTECTING NORTH**
18 **KOREAN REFUGEES**

19 **SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND**
20 **DEFECTORS.**

21 (a) REPORT.—Not later than 120 days after the date
22 of the enactment of this Act, the Secretary of State, in
23 consultation with the heads of other appropriate Federal
24 departments and agencies, shall submit to the appropriate
25 congressional committees and the Committees on the Ju-

1 diciary of the House of Representatives and the Senate
2 a report that describes the situation of North Korean refu-
3 gees and explains United States Government policy toward
4 North Korean nationals outside of North Korea.

5 (b) CONTENTS.—The report shall include—

6 (1) an assessment of the circumstances facing
7 North Korean refugees and migrants in hiding, par-
8 ticularly in China, and of the circumstances they
9 face if forcibly returned to North Korea;

10 (2) an assessment of whether North Koreans in
11 China have effective access to personnel of the
12 United Nations High Commissioner for Refugees,
13 and of whether the Government of China is fulfilling
14 its obligations under the 1951 Convention Relating
15 to the Status of Refugees, particularly Articles 31,
16 32, and 33 of such Convention;

17 (3) an assessment of whether North Koreans
18 presently have unobstructed access to United States
19 refugee and asylum processing, and of United States
20 policy toward North Koreans who may present
21 themselves at United States embassies or consulates
22 and request protection as refugees or asylum seekers
23 and resettlement in the United States;

1 (b) TREATMENT OF NATIONALS OF NORTH
2 KOREA.—For purposes of eligibility for refugee status
3 under section 207 of the Immigration and Nationality Act
4 (8 U.S.C. 1157), or for asylum under section 208 of such
5 Act (8 U.S.C. 1158), a national of the Democratic Peo-
6 ple’s Republic of Korea shall not be considered a national
7 of the Republic of Korea.

8 **SEC. 303. FACILITATING SUBMISSION OF APPLICATIONS**
9 **FOR ADMISSION AS A REFUGEE.**

10 The Secretary of State shall undertake to facilitate
11 the submission of applications under section 207 of the
12 Immigration and Nationality Act (8 U.S.C. 1157) by citi-
13 zens of North Korea seeking protection as refugees (as
14 defined in section 101(a)(42) of such Act (8 U.S.C.
15 1101(a)(42)).

16 **SEC. 304. UNITED NATIONS HIGH COMMISSIONER FOR REF-**
17 **UGEES.**

18 (a) ACTIONS IN CHINA.—It is the sense of Congress
19 that—

20 (1) the Government of China has obligated
21 itself to provide the United Nations High Commis-
22 sioner for Refugees (UNHCR) with unimpeded ac-
23 cess to North Koreans inside its borders to enable
24 the UNHCR to determine whether they are refugees
25 and whether they require assistance, pursuant to the

1 1951 United Nations Convention Relating to the
2 Status of Refugees, the 1967 Protocol Relating to
3 the Status of Refugees, and Article III, paragraph
4 5 of the 1995 Agreement on the Upgrading of the
5 UNHCR Mission in the People’s Republic of China
6 to UNHCR Branch Office in the People’s Republic
7 of China (referred to in this section as the
8 “UNHCR Mission Agreement”);

9 (2) the United States, other UNHCR donor
10 governments, and UNHCR should persistently and
11 at the highest levels continue to urge the Govern-
12 ment of China to abide by its previous commitments
13 to allow UNHCR unimpeded access to North Ko-
14 rean refugees inside China;

15 (3) the UNHCR, in order to effectively carry
16 out its mandate to protect refugees, should liberally
17 employ as professionals or Experts on Mission per-
18 sons with significant experience in humanitarian as-
19 sistance work among displaced North Koreans in
20 China;

21 (4) the UNHCR, in order to effectively carry
22 out its mandate to protect refugees, should liberally
23 contract with appropriate nongovernmental organi-
24 zations that have a proven record of providing hu-

1 humanitarian assistance to displaced North Koreans in
2 China;

3 (5) the UNHCR should pursue a multilateral
4 agreement to adopt an effective “first asylum” pol-
5 icy that guarantees safe haven and assistance to
6 North Korean refugees; and

7 (6) should the Government of China begin ac-
8 tively fulfilling its obligations toward North Korean
9 refugees, all countries, including the United States,
10 and relevant international organizations should in-
11 crease levels of humanitarian assistance provided in-
12 side China to help defray costs associated with the
13 North Korean refugee presence.

14 (b) ARBITRATION PROCEEDINGS.—It is further the
15 sense of Congress that—

16 (1) if the Government of China continues to
17 refuse to provide the UNHCR with access to North
18 Koreans within its borders, the UNHCR should ini-
19 tiate arbitration proceedings pursuant to Article
20 XVI of the UNHCR Mission Agreement and appoint
21 an arbitrator for the UNHCR; and

22 (2) because access to refugees is essential to the
23 UNHCR mandate and to the purpose of a UNHCR
24 branch office, a failure to assert those arbitration
25 rights in present circumstances would constitute a

1 significant abdication by the UNHCR of one of its
2 core responsibilities.

3 **SEC. 305. ANNUAL REPORTS.**

4 (a) IMMIGRATION INFORMATION.—Not later than 1
5 year after the date of the enactment of this Act, and every
6 12 months thereafter for each of the following 5 years,
7 the Secretary of State and the Secretary of Homeland Se-
8 curity shall submit a joint report to the appropriate con-
9 gressional committees and the Committees on the Judici-
10 ary of the House of Representatives and the Senate on
11 the operation of this title during the previous year, which
12 shall include—

13 (1) the number of aliens who are nationals or
14 citizens of North Korea who applied for political asy-
15 lum and the number who were granted political asy-
16 lum; and

17 (2) the number of aliens who are nationals or
18 citizens of North Korea who applied for refugee sta-
19 tus and the number who were granted refugee sta-
20 tus.

21 (b) COUNTRIES OF PARTICULAR CONCERN.—The
22 President shall include in each annual report on proposed
23 refugee admission pursuant to section 207(d) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1157(d)), informa-
25 tion about specific measures taken to facilitate access to

1 the United States refugee program for individuals who
2 have fled countries of particular concern for violations of
3 religious freedom, identified pursuant to section 402(b) of
4 the International Religious Freedom Act of 1998 (22
5 U.S.C. 6442(b)). The report shall include, for each coun-
6 try of particular concern, a description of access of the
7 nationals or former habitual residents of that country to
8 a refugee determination on the basis of—

9 (1) referrals by external agencies to a refugee
10 adjudication;

11 (2) groups deemed to be of special humani-
12 tarian concern to the United States for purposes of
13 refugee resettlement; and

14 (3) family links to the United States.

Passed the House of Representatives July 21, 2004.

Attest:

Clerk.