

# Addressing the “Paradise on Earth” Deception: The Quest for Justice for Migrants from Japan to North Korea

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*During the period of 1959 to 1984, North Korean false propaganda led over 90,000 ethnic Koreans and their families to migrate from Japan to North Korea. Once in North Korea, the migrants suffered severe discrimination and human rights abuses. For decades, there was little prospect of justice for these abuses. In recent years, however, survivors of this migration who escaped North Korea have renewed efforts to gain some type of recognition and compensation. This note reviews three of these attempts: lawsuits in Japanese and South Korean courts, as well as a petition that was brought before the Korean Truth and Reconciliation Commission. While each of these avenues has helped bring to light the truth of North Korean deception, more work remains to be done with respect to collecting compensation.*

## Keywords

North Korea, Migration, Paradise on Earth, Zainichi Koreans, Human Rights, North Korean escapees

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## 1. Introduction

During the 1950s and beyond, ethnic Koreans living in Japan (*Zainichi* Koreans) faced considerable discrimination and poverty.<sup>1</sup> Many of them felt unwelcome, and they were often treated as a burden by the Japanese government.<sup>2</sup> In this context, the North Korean government initiated a campaign in 1958 for Japan to convince this disaffected population to emigrate to North Korea, where their skilled manpower could be exploited and their presence would provide a propaganda victory over South Korea by showing the desirability of North Korea as a homeland.<sup>3</sup>

The Japanese government agreed to this programme, which was facilitated by the Japanese Red Cross and the International Committee of the Red Cross. The campaign was built on a web of lies.<sup>4</sup> North Korea created a sophisticated and highly misleading propaganda programme to convince *Zainichi* Koreans that North Korea was a “Paradise on Earth,” where they would be able to live in freedom and prosperity. Migrants were promised that they would possess their own apartment, be given jobs and have free access to hospitals and schools.<sup>5</sup> The North Korean government carried out this campaign of lies largely through the activities of the North Korea-oriented General Federation of Koreans in Japan (Chongryon).

By the termination of this migration programme in 1984, a total of 93,340 Japanese residents had moved to North Korea.<sup>6</sup> Most of these (roughly 70,000) had departed for North Korea during the first few years of the programme (1959-61).<sup>7</sup> Nearly all of them were originally from the southern part of Korea and had migrated to Japan

<sup>1</sup> Adrien Carbonnet, *North Korean Defectors, States, and NGOs: The Case of Former Korean Residents in Japan*, 14(1) J. N.E. ASIAN HIST. 154 (2017).

<sup>2</sup> Safa Choi, *Nationality as a Diplomatic Tool - Relationship between Japan and the Two Koreas and the Issues Surrounding Zainichi Koreans*, 39 HALLYM J. JAP. STUD. 333 (2021); Tessa Morris-Suzuki, *Exodus to North Korea Revisited: Japan, North Korea, and the ICRC in the “Repatriation” of Ethnic Koreans from Japan*, 9(22) ASIA-PAC. J. | JAPAN FOCUS 11 (2011).

<sup>3</sup> Tessa Morris-Suzuki, *Refugees, Abductees, ‘Returnees’: Human Rights in Japan-North Korea Relations*, 7(13) ASIA-PAC. J. | JAPAN FOCUS 14-5 (2009).

<sup>4</sup> See generally SOHEE KIM & JI-YOON LEE, WHAT HAPPENED TO ETHNIC KOREANS DISPLACED FROM JAPAN TO NORTH KOREA (2021).

<sup>5</sup> Julian Ryall, *Japanese escapee sues North Korea for decades of misery*, DEUTSCHE WELLE (Sept. 7, 2021), <https://www.dw.com/en/japanese-escapee-sues-north-korea-for-decades-of-misery/a-59110801>.

<sup>6</sup> Morris-Suzuki, *Refugees, Abductees, ‘Returnees’*, *supra* note 3. Most were *Zainichi* Koreans, but 1,831 of the migrants were Japanese spouses. Diet Record, 208th Diet Session, House of Councillors, Committee on Foreign Affairs and Defense, No. 9 (Apr. 14, 2022), <https://kokkai.ndl.go.jp/#/detail?minId=120813950X00920220414>.

<sup>7</sup> Haruhisa Ogawa, *The Fate of those who were Repatriated from Japan to North Korea*, 1 LIFE & HUM. RTS. IN NORTH KOREA 4 (1996), <https://www.nkhr.or.kr/wp-content/uploads/2016/02/vol.-1-lifehr-Autumn-1996.pdf>.

before the post-war division of the Korean peninsula.<sup>8</sup> The migrants' experiences upon arriving in North Korea was tragic. The North Korean authorities treated them with suspicion, seeing them as potential spies, and they were often sent to perform manual labour in isolated areas of the country.<sup>9</sup> Some were detained in North Korean prison camps amidst political purges.<sup>10</sup> They were not allowed to return to Japan, even to visit, and were subject to extreme deprivation during the famine that afflicted the country in the mid-nineties. Eventually, however, around 500 of these migrants (and their descendants) escaped and continued their lives in Japan and South Korea.<sup>11</sup>

For many years, the tragic stories of this misguided migration were of relatively little interest to human rights lawyers. Some observers falsely viewed the migrants as having simply made a bad decision, suffering the consequences of their ideological choice. In recent years, however, survivors of the "Paradise on Earth" migration and their descendants who have escaped North Korea have attempted to hold the North Korean authorities responsible for their deception and the suffering that they caused. These efforts, which will be analysed in the following sections, have faced a number of difficult challenges, but have also met with some success, in both Japan and South Korea.

## 2. Japanese Litigation

In 2018, five survivors of the "Paradise on Earth" migration, each of whom had escaped to Japan between 2001 and 2003, filed suit against the North Korea government in the Tokyo District Court.<sup>12</sup> The plaintiffs alleged that they had been deceived by false propaganda into traveling to North Korea, where they were not allowed to travel freely within the country and not allowed to leave the country.<sup>13</sup> In the case of one

<sup>8</sup> Junhyoung Lee & Alexander Dukalskis, *Reaching for the Past: North Korea's Engagement with Koreans in Japan*, GLOBALIZATIONS 1-19 (Apr. 2024).

<sup>9</sup> MARKUS BELL, *OUTSIDERS: MEMORIES OF MIGRATION TO AND FROM NORTH KOREA* 90-5 (2022).

<sup>10</sup> TESSA MORRIS-SUZUKI, *EXODUS TO NORTH KOREA: SHADOWS FROM JAPAN'S COLD WAR* 239 (2007).

<sup>11</sup> Database Center for North Korean Human Rights, *North Korea's Crimes Against Humanity Against North Koreans in Japan Sentenced by South Korean Court*, Press Release (Sept. 12, 2024), <https://nkdb.org/notic/?idx=99460453&bmode=view>.

<sup>12</sup> Ryuichi Kitano, *Plaintiffs Lose in the "North Korea Repatriation Project" Trial, but Partially Break Through the "wall" of Sovereign Immunity* [「北朝鮮帰国事業」裁判で原告敗訴も主権免除の「壁」を一部突破], SHUKAN KINYOBI (May 6, 2022), <https://www.kinyobi.co.jp/kinyobinews/2022/05/06/antena-1088>.

<sup>13</sup> Plaintiffs preparatory brief for Tōkyō Chihō Saibansho [Tōkyō Dist. Ct.] Dec. 28, 2020, Hei 30 (Wa) no. 26750, at 2. A series of legal documents from this litigation, including judgments and filings, have been posted online by the plaintiffs' lawyers at the blog: <https://nklawsuit.hatenablog.com>.

plaintiff, Eiko Kawasaki, North Korea's continued refusal to allow the plaintiff's family to leave North Korea also led to the plaintiff's inability to reunite with her family. The plaintiffs sought 100 million yen damages apiece. Although North Korea was informed of the suit through notice posted on the court's bulletin board, it did not appear at any stage of the proceeding.<sup>14</sup>

On March 23, 2022, the Tokyo District Court issued its judgment.<sup>15</sup> The Court found that this case was not barred by sovereign immunity because Japan does not recognise the state of North Korea. It also found that the substantive claims set forth by the plaintiffs were valid: historical documents clearly showed that the North Korean government had instructed Chongryon to falsely portray the standard of life in North Korea as higher than that in Japan.

Nevertheless, the Tokyo District Court dismissed the plaintiffs' lawsuit on grounds of state of limitations and lack of jurisdiction. The Court found that the series of acts set forth by the plaintiffs in fact constituted two separate claims. First, there was the deceptive solicitation of *Zainichi* Koreans to participate in the repatriation project. Second, there was the detention of plaintiffs within North Korea after they had migrated to North Korea. The false propaganda claim was found to be time-barred, because the right to claim damages expires 20 years after the tort occurred. Meanwhile, the denial of freedom of movement claim took place outside of Japan and was therefore outside the Court's jurisdiction.<sup>16</sup>

The plaintiffs appealed, arguing that in fact the entire sequence from recruitment to travel and detention constituted a single, unified act of "state kidnapping."<sup>17</sup> On October 30, 2023, the Tokyo High Court overturned the District Court's decision, finding in favor of the four remaining plaintiffs (one had died in the course of the litigation, and another passed away a few months after the High Court verdict).<sup>18</sup> The High Court decided that North Korea's misleading pre-departure propaganda and ensuing post-migration human rights violations constituted a single continuous act.<sup>19</sup> This meant that the plaintiffs were no longer time-barred. It also meant that the entire continuous act fell within the Court's jurisdiction, because the misleading

<sup>14</sup> *Id.*

<sup>15</sup> Tōkyō Chihō Saibansho [Tōkyō Dist. Ct.] Mar. 23, 2022, Hei 30 (Wa) no. 26750.

<sup>16</sup> *Id.* at 48.

<sup>17</sup> See *North Korea Repatriation Project, Appeal Court Ruling on 30th: Court Jurisdiction and Other Issues*, SANKEI SHIMBUN DAILY (Oct. 28, 2023), <https://www.sankei.com/article/20231028-NAFF2WOBWRLRILVCF0HELVMVOU>.

<sup>18</sup> Tōkyō Kōtō Saibansho [Tokyo High Ct.] Oct. 30, 2023, Rei 4 (Ne) No. 1972. The plaintiffs were Ms. Eiko Kawasak, Ms. Hiroko Saito, Ms. Jongmi Ko (passed away in Feb. 2023), Ms. Yoko Sakakibara, and Mr. Manabu Ishikawa (passed away in Feb. 2024).

<sup>19</sup> *Id.* at 18-9.

propaganda was issued on Japanese territory.

The plaintiffs' victory was groundbreaking, being the first time that North Korea has been found liable for damages in a Japanese courtroom. The case has now been remanded for retrial in the District Court on the basis of High Court's finding that North Korea's misleading propaganda and denial of freedom of movement constitute a continuous act. The next trial is likely to be held around January 2025, but the plaintiffs have indicated a willingness to cease the appeal if they are offered compensation, even if it less than the full 100 million yen demand. The remaining plaintiffs are quite elderly, so there is an interest in resolving the litigation as soon as possible.<sup>20</sup>

Figure 1: The plaintiffs rejoice over the decision



Source: Taken by the author (Miyatsuka), dated Oct. 30, 2023.

Even if plaintiffs are awarded damages upon remand, collection would be a significant challenge. According to plaintiffs' attorney Kenji Fukuda, plaintiffs would consider seizing North Korean assets in Japan.<sup>21</sup> A survivors' representative has said that they would also file a lawsuit directly against Chongryon for its role in promulgating false propaganda for the migration.<sup>22</sup>

<sup>20</sup> Interview with a plaintiff representative on October 24, 2024 by the author (Miyatsuka).

<sup>21</sup> Ryuichi Kitano, *Tokyo High Court Remanded Judgment in Appeal of "Repatriation Business" Lawsuit: Compensation Order to the North Korean Government?*, SHUKAN KINYOBI (Nov. 27, 2023), <https://www.kinyobi.co.jp/kinyobinews/2023/11/27/antena-1368>.

<sup>22</sup> Database Center for North Korean Human Rights, *Landmark Case: South Korean Court Sees First-Ever Lawsuit Filed Against North Korean Government for "Paradise on Earth" Atrocities*, Press Release (Mar. 13, 2023), <https://nkdb.org/notice/?idx=18429355&bmode=view>. Past attempts by "Paradise on Earth" victims to sue Chongryon have failed due to

### 3. Korean Litigation

Meanwhile, on March 15, 2024, five South Korean “Paradise on Earth” migration victims separately filed suit in the Seoul Central District Court against the North Korean government, with legal support from the NKDB Center for Human Rights Legal Support. The plaintiffs sought 100 million won each to compensate for the psychological damages that they had suffered as a result of being induced to move to North Korea through false propaganda, and having suffering forcible detention and other abuses once they had arrived there.<sup>23</sup>

One early issue that the plaintiffs faced was how to serve notice to the North Korean government, which evidently does not maintain a presence in South Korea. At first, the plaintiffs attempted to serve North Korea with papers at their UN Mission in New York, but this was not accepted by the Court (although it did raise publicity for the case).<sup>24</sup> Rather, the Court held that service should take place in South Korea; in this case valid service was effected through public notice pursuant to Article 194 of the Civil Procedure Act.<sup>25</sup> Public notice is a system where, if delivery is impossible, relevant documents are kept at the court, with the content considered as having been delivered to the parties.<sup>26</sup> Unsurprisingly, the North Korean authorities did not participate in the ensuing trial.

As in the Japanese lawsuit, sovereign immunity was not an issue because North Korea is not recognized as a state under South Korean law.<sup>27</sup> Rather, it is characterized variably as an “anti-state organization attempting to overthrow the free democratic system of our Republic of Korea”<sup>28</sup> and (more straightforwardly), as an “organization that effectively governs the area north of the Military Demarcation Line and joined the UN together with the Republic of Korea in September 1991.”<sup>29</sup>

In some ways, the legal issues were less challenging for plaintiffs in the South Korean case than they had been in the Japanese litigation. Potential statute of limitations concerns, for example, never came into play, because such issues need

the statute of limitations being judged to have expired.

<sup>23</sup> Database Center for North Korean Human Rights, *supra* note 11.

<sup>24</sup> *Id.*

<sup>25</sup> Seoul Central District Court [Dist. Ct.] (Sept. 12, 2004), at 3.

<sup>26</sup> ROK Civil Procedural Act, art. 475.

<sup>27</sup> Seoul Central District Court [Dist. Ct.], *supra* note 25, at 5.

<sup>28</sup> *Id.* at 2.

<sup>29</sup> *Id.* at 5.

to be brought up by the defendants in the South Korean legal system. In this case, however, the defendant was absent from proceedings. Jurisdictional issues were also less troublesome, because under the South Korean constitution, the Republic of Korea is defined to include both North and South Korea.<sup>30</sup> Thus, the plaintiffs were seen as citizens of the Republic of Korea, and events in North Korea – which were the continuation of illegal acts that commenced in Japan – were seen as taking place on the territory of the Republic of Korea.<sup>31</sup>

On September 12, 2024, the Court handed down its verdict in favor of the plaintiffs, finding that North Korean authorities had fooled the prospective migrants through deceptive propaganda, and then subjected them to severe discrimination in North Korea, while also denying their freedom of movement.<sup>32</sup> These actions contravened the plaintiffs' constitutional rights to the pursuit of happiness (art. 10), freedom from discrimination (art. 11) and freedom of private life and residence (art. 14).<sup>33</sup> The Court awarded each of the defendants the full 100 million won damages that had been requested.<sup>34</sup> Of course, as is the case in Japan, it will be very challenging to actually recover any of those funds. One possibility that lawyers will explore is whether there are any unpaid funds to North Korea that arose during prior inter-Korean economic cooperation that can be collected.<sup>35</sup> Previous lawsuits seeking compensation from North Korea have often focused on securing compensation through North Korean media copyright fees.

## 4. Truth and Reconciliation Commission of Korea

At around the same time as the Japanese and Korean cases were making their way through the courts, the “Paradise on Earth” migration was also being considered by another fact-finding body: The Truth and Reconciliation Commission of Korea (TRCK). At the first founded in December 2005,<sup>36</sup> the TRCK was (among other things) broadly tasked with investigating human rights abuses taking place from August 1945

<sup>30</sup> ROK Constitution 1987, art. 3.

<sup>31</sup> Seoul Central District Court [Dist. Ct.], *supra* note 25, at 5.

<sup>32</sup> *Id.* at 9-10.

<sup>33</sup> *Id.* at 18.

<sup>34</sup> *Id.* at 18-20.

<sup>35</sup> Database Center for North Korean Human Rights, *supra* note 11.

<sup>36</sup> ROK Framework Act on Clearing up Past Incidents for Truth and Reconciliation (Law No. 7542, May 31, 2005).



to the end of South Korea's authoritarian regime.<sup>37</sup> It concluded its original mandate in 2010, but was reconstituted in 2020 by the Moon Jae In administration, in order to finish up investigations that had not been completed during the earlier term.<sup>38</sup>

In December 2022, human rights activists representing 27 victims of the "Paradise on Earth" migration (or their descendants) filed a request for this Commission to investigate the "resettlement programme."<sup>39</sup> After a period of delay, the TRCK formally opened an investigation into the matter in November 2023. This was the first government-level investigation of the "Paradise on Earth" migration. The TRCK researchers were able to access official documents and diplomatic cables about the events and were able to travel to Japan also as part of their investigation.<sup>40</sup>

On August 6, 2024, the Commission issued its findings. They concluded that North Korea and Chongryon had deceived the migrants with false propaganda, asserting that North Korea was an ideal society which would guarantee their human rights, and that they would be able to live free from discrimination and taxes.<sup>41</sup> Upon arrival, however, most of the migrants were confined to isolated rural areas, where they were kept under surveillance. One boy who asked to return to Japan was taken away by soldiers, only to resurface five years later in a mental hospital.<sup>42</sup> The migrants suffered discrimination and oppression in all aspects of their lives. When some attempted to escape, they faced torture or were forced to work in coal mines.<sup>43</sup>

North Korea and Chongryon were found to bear primary responsibility for deceiving prospective migrants and refusing to let them return to Japan. However, the Japanese government and the Japanese Red Cross were also condemned by the TRCK report for supporting the "Paradise on Earth" project despite knowing the reality behind North Korean propaganda. Meanwhile, the International Committee

<sup>37</sup> The precise list of covered incidents was as follows: "(1) anti-Japanese movements during Japanese rule, as well as in the years following Korea's liberation; (2) efforts by overseas Koreans to uphold Korea's sovereignty and enhance Korea's national prestige from the time of the Japanese occupation to the enforcement date of the Act; (3) massacres from 15 August 1945 to the Korean War period; (4) incidents of death, injury, or disappearance, and other major acts of human rights violations, including politically fabricated trials that were committed through the illegal or seriously unjust exercise of state power, such as the violation of the constitutional order from 15 August 1945 to the end of the authoritarian regimes; (5) terrorist acts, human rights violations, violence, massacres, and suspicious deaths by parties that denied the legitimacy of or were hostile toward the Republic of Korea from 15 August 1945 to the end of the authoritarian regimes; and (6) incidents that are historically important and incidents that the Commission deems necessary." See *id.* art. 2.

<sup>38</sup> *Id.* (as amended on June 9, 2020).

<sup>39</sup> TRCK, *Decision to Clarify the Truth about 'Human Rights Violations' in the repatriation of Koreans from Japan*, Press Release (Aug. 7, 2024).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 2.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*



of the Red Cross was found to have failed in its duty to manage compliance with the repatriation agreement.

The TRCK urged the North Korean government to issue an official apology; confirm the status of the repatriated individuals; and guarantee their freedom of movement. It also recommended that the UN investigate the repatriation project and the damages and whereabouts of the repatriates and their families, and that the results of the investigation into this incident be reflected in historical records. The TRCK is unable to award compensation, nor can it realistically compel North Korea to apologize or change its behavior. Nevertheless, their findings on North Korean responsibility may be seen as authoritative, and may, in turn, be used by future plaintiffs who want to file lawsuits against North Korea or other defendants.

## 5. Conclusion

Much has been gained in the past few years through the unrelenting efforts of North Korean escapees and their lawyer. Courts in both Japan and South Korea – as well as the Korean Truth and Reconciliation Commission – have concluded that the “Paradise on Earth” migration was built upon a web of lies and deception. The survivors’ efforts have also led to a wave of press stories around the world, bringing this long-passed episode back into the public light, and showing that the ramifications of North Korea’s deception still remain significant.<sup>44</sup> Human rights NGOs have increasingly taken up the issue,<sup>45</sup> and international actors such as the Office of the High Commissioner of Human Rights<sup>46</sup> and the UN Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea have begun to take notice.<sup>47</sup>

Yet, there is still much to do. Collecting compensation from North Korea will be

<sup>44</sup> Jonathan Vit, ‘Return to paradise’, *North Korea urged Japan’s Zainichi. Their Reward? ‘So Much Pain and Regret’*, S. CHINA MORNING POST (Aug. 26, 2023), <https://www.scmp.com/week-asia/politics/article/3232333/return-paradise-north-korea-urged-japans-zainichi-their-reward-so-much-pain-and-regret>.

<sup>45</sup> See, e.g., KANAE DOI, HUMAN RIGHTS WATCH, NORTH KOREA’S CAMPAIGN WAS NO ‘PARADISE ON EARTH’ (Oct. 31, 2023); SOHEE KIM & J-YOON LEE, CITIZENS ALLIANCE FOR NORTH KOREAN HUMAN RIGHTS, WHAT HAPPENED TO ETHNIC KOREANS DISPLACED FROM JAPAN TO NORTH KOREA (2021).

<sup>46</sup> Office of the United Nations High Commissioner for Human Rights, “These wounds do not heal” - Enforced Disappearance and Abductions by the Democratic People’s Republic of Korea (Mar. 28, 2023), <https://www.ohchr.org/en/documents/reports/these-wounds-do-not-heal-enforced-disappearance-and-abductionsdemocratic-peoples>.

<sup>47</sup> Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, Situation of Human Rights in the Democratic People’s Republic of Korea, U.N. Doc. A/79/235 (Sept. 13, 2024), ¶36, <https://www.ohchr.org/en/documents/country-reports/a79235-report-special-rapporteur-situation-human-rights-democratic>.

difficult. Other parties, such as Chongryon, the Japanese government and the Japanese Red Cross, have yet to be held responsibility for their actions. Thus, the story of the “Paradise on Earth” migration is not yet complete, and the long fight for recognition and compensation will continue even as the precipitating events fade into history.

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