

An interesting option is to seek a state sponsor for the South Korean POWs other than the US, or South Korea to at least attempt to put the issue on the Security Council's agenda. While it is certain that China will block such an attempt, the attempt itself will raise international awareness of the POW problem.

Member states of the European Union have been outspoken about North Korean Human rights issues in general. Several EU members were part of the multinational force that fought under the UN Command and may be interested in accounting for their own soldiers who were missing in the Korean War.

If such a sponsoring state can be found, it may also be possible for that state to file a suit against North Korea in the ICJ demanding as relief an accounting of all POWs and missing soldiers. The evidentiary material prepared for the ICC should be detailed enough for a Security Council appeal and legal action in the ICJ.

## **9. Conclusion**

South Korea believes at least 560 of its former soldiers survive in North Korea after decades of captivity. The number of their children living in North Korea is unknown. Accurate numbers and the whereabouts of both the POWs themselves and their children are probably known to North Korean State Security which has kept them under surveillance.

Until now, North Korea has denied even the existence of South Korean POWs. But the new evidence presented from testimonies of escaped POWs and Soviet diplomatic documents shows that North Korean leaders knowingly detained South Koreans ignoring their desires to return home.

The International Korean War Memorial Foundation believes there is enough evidence to appeal to international agencies and take international legal action against North Korean individuals and the North Korean state to free the POWs. The agencies the Foundation can appeal by itself are the International Criminal Court and the UN Human Rights Council.

The ICC referral list the prolonged detention of POWs as a War Crime and the systematic discrimination against the POWs and their children as a Crime Against Humanity according to the Rome Statute. The Defendants are North Korean leaders including Kim Jong Il and others who command the North Korean military forces and the State Security forces who are responsible for the continued detention of POWs after 2002.

The complaint to the UN Human Rights Council lists violations of human rights listed in the Universal Declaration of Human Rights. The prolonged detention and discrimination violate the freedom of movement, freedom from arbitrary detention, right to equal protection and freedom from slavery.

If a state sponsor can be found, appeals can also be made to the UN Security Council and a state can bring a case in the International Court of Justice against North Korea. The evidence against North Korea in these actions will be the same testimonies and documentary evidence to be used in the other appeals.

North Korea has been criticized for many human rights violations for many years and the international outrage against the violations has not yet changed North Korea's behavior. The chance for positive change in North Korea's behavior towards the POWs is not any greater. However, the referrals and appeals on behalf of the POWs can increase awareness of this forgotten and unresolved consequence of the Korean War.

By mobilizing the international community, new ways to help the POWs and exploit opportunities presented by political developments not only in North Korea but also China may be devised. Few human rights activist working on behalf of East Germans in 1985, would have expected that the Berlin Wall would fall only 4 years later in 1989. The Foundation works to keep the world ready to help the POWs when the opportunities come.

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## **APPENDIX 1. SUMMARIZED TESTIMONIES OF ESCAPED POWS**

**REF: I.C.C. DOCUMENT**

## **APPENDIX 2. DOCUMENTS FROM SOVIET FOREIGN MINISTRY ARCHIVES**

**REF: I.C.C. DOCUMENT**