



ONE HUNDRED EIGHTEENTH CONGRESS
REPRESENTATIVE CHRISTOPHER H. SMITH, CHAIR
SENATOR JEFF MERKLEY, COCHAIR

August 29, 2023

High Commissioner Volker Türk
UN High Commissioner for Human Rights
Palais des Nations
CH-1211 Geneva 10, Switzerland

High Commissioner Filippo Grandi
UN High Commissioner for Refugees
Case Postale 2500
CH-1211 Genève 2 Dépôt, Switzerland.

Dear High Commissioners Türk and Grandi:

We write in our capacity as chairs of the [Congressional Executive Commission on China \(CECC\)](#) to express our concern regarding the potential mass repatriation of North Korean refugees currently residing in the People's Republic of China (PRC) and to request a meeting to discuss next steps.

According to Elizabeth Salmón, the UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, there are currently around [2,000](#) detainees awaiting repatriation from the PRC to North Korea. It is highly likely that these North Korean refugees will face severe human rights violations if returned to North Korea. Equally concerning is the reported [opening](#) of the North Korean border, which had been closed for an extended period of time due to COVID-19 concerns.

Against this backdrop, in June 2023, the CECC held a [hearing](#) titled "North Korean Refugees and the Imminent Danger of Forced Repatriation from China." The purpose of the hearing was to examine the current situation on the ground in China and to raise concern over the welfare of these individuals should they be refouled to North Korea. We also called for greater engagement by the UN and requested its intervention to uphold international refugee law and prevent refoulement. A UN spokesman [responded](#) promptly, reaffirming the Secretary-General's commitment to the respect of international refugee law and opposition to refoulement. Yet more needs to be done.

In light of the above, we would like to request either an on-line or in-person meeting with both of you, either jointly or separately, to discuss the further steps that the UN can take to prevent forced repatriation and avert a potential mass human rights crisis.

We note with gratitude that after a 6-year hiatus, the Security Council held a [public meeting](#) on North Korean human rights, during which High Commissioner Türk made a veiled reference to China's role in the forced repatriation of North Korean refugees. We understand that others within the UN system have expressed concern about this issue as well. In a letter signed by Ojea Quintana, then UN special rapporteur on North Korean human rights, and Nils Meltzer, the special rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, the Chinese government was [called upon](#) by the UN to cease the repatriation of North Korean refugees in the PRC.

However, the Chinese government remains intransigent, alleging that the principle of non-refoulement does not apply to North Korean defectors as they are considered illegal immigrants – a conclusory assertion which does not comport with the PRC's obligations under international law.

The 1951 Convention Relating to the Status of Refugees (the 'Refugee Convention'), which the PRC acceded to on September 24, 1982, stipulates in Article 33 that 'No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where their life or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group, or political opinion.' This article establishes the principle of non-refoulement, which is generally interpreted to apply not only to formally acknowledged refugees but also to those whose refugee status has not yet been determined. Therefore, even in the case of North Korean escapees who face a high risk of having their 'life or freedom threatened' if they are repatriated, the PRC is violating its obligations under the Refugee Convention by categorizing all of them as 'economic migrants' or 'illegal immigrants' without undergoing proper domestic procedures to determine their refugee status and subsequently returning them to North Korea.

Likewise, Article 3.1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"), which the PRC acceded to on October 4, 1988, stipulates that "No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." Moreover, the Convention further clarifies that "For the purposes of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights." The widespread documentation from within the UN system of treatment of North Korean returnees that amounts to torture and other cruel, inhuman, or degrading treatment or punishment, and the fact that North Korea exhibits a consistent pattern of human rights abuses that are gross, flagrant and mass, make it imperative that the PRC must abide by its obligations under the CAT as well.

The CECC continues to monitor the situation on the ground closely and plans to publish a standalone report on the issue this year in addition to including a chapter on North Korean refugees in China in our annual report per our usual practice. We believe that the UN has a greater, ongoing role to play, and we are interested in exploring opportunities for collaboration.

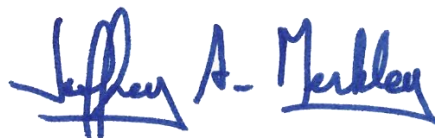
We strongly believe that this is a matter of the utmost urgency. As China gets ready to host the 19th Asian Games from September 23 to October 8 under the theme "Heart to heart, @Future," it is crucial for the international community to recognize that these ideals can never hold true if China persists in its violations of international law with regards to forced repatriation.

Thank you for your attention to this matter. We look forward to hearing from you regarding your availability to learn more about your subsequent steps and plans to address this very important issue.

Sincerely,



Representative Chris Smith
Chair



Senator Jeffrey A. Merkley
Cochair

cc: The Hon. Linda Thomas-Greenfield

The Hon. Michele J. Sison

The Hon. Julie Turner