

NORTH KOREAN REFUGEES IN CHINA

Introduction

China's treatment of North Korean refugees came under increased scrutiny in 2014 amid growing international concern over human rights in the Democratic People's Republic of Korea (DPRK). A widely publicized United Nations Commission of Inquiry report released in February 2014 condemned China for forcibly repatriating North Korean refugees, stating that such action could be considered aiding and abetting crimes against humanity in the DPRK. Chinese authorities continue to detain and repatriate North Korean refugees to the DPRK despite repatriated persons facing torture, detention, and other inhumane treatment. The Chinese government maintains that North Koreans who enter China without proper documentation are illegal economic migrants and continues to repatriate them based on a 1961 treaty with the DPRK and 1986 border protocol.¹ China's repatriation of North Korean refugees contravenes its international obligations under the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol.² China is also obligated under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to refrain from repatriating persons if there are "grounds for believing that [they] would be in danger of being subject to torture."³

UN Commission of Inquiry: Findings and Reaction

On February 17, 2014, the United Nations Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (UN COI) released its report on human rights violations in the DPRK.⁴ The UN COI explicitly denounced China in its report for forcibly repatriating North Korean refugees to the DPRK,⁵ declaring that Chinese officials could be held accountable for "the aiding and abetting of crimes against humanity" in cases where repatriation and the exchange of information on refugees "are specifically directed towards or have the purpose of facilitating the commission of crimes against humanity in the DPRK."⁶ The UN COI found that many North Koreans crossing the border into China "do so owing to a well-founded fear of being persecuted for reasons of religion or political opinion,"⁷ while repatriated persons are regularly "subjected to torture, arbitrary detention, summary execution, forced abortion and other forms of sexual violence."⁸ Despite China's assertion that North Koreans entering China are illegal economic migrants, the UN COI concluded that evidence supported recognizing many of them as "refugees fleeing persecution or refugees *sur place*," entitling them to international protection.⁹

China opposed the establishment of the UN COI and remained unsupportive throughout implementation of its mandate.¹⁰ During the UN COI's investigation, the Chinese government refused multiple times to allow UN COI staff entry into China and access to regions where refugees are known to reside.¹¹ The UN COI was also prevented from meeting with Chinese experts, religious organizations, and other civil society groups working on issues related to North Korea and North Korean refugees.¹²

China has long been reluctant to work with UN agencies on issues related to North Korean refugees. The UN COI report indicated China continued to deny the United Nations High Commissioner for Refugees (UNHCR) “unimpeded access to asylum seekers including those from the DPRK,” despite a 1995 agreement between China and the UNHCR.¹³ The UN Special Rapporteur on the Situation of Human Rights in the DPRK has indicated China’s cooperation is “a key factor in bringing meaningful change to the situation of human rights” in the DPRK.¹⁴ Calling the situation for North Korean refugees “far from ideal” and “not at all sustainable,” the Special Rapporteur urged China to “engage in a constructive dialogue . . . to help find a way forward.”¹⁵

Unlawful Repatriation and Worsening Border Conditions

Throughout the 2014 reporting year, China appeared to strengthen measures to stem the flow of North Korean refugees into China, including increasing border security and detaining and repatriating refugees to the DPRK.¹⁶ Chinese security officials reportedly were provided guidelines in November 2013 directing them to handle refugees “in the same way they deal with major crimes against the state.”¹⁷ South Korean and other international media outlets reported on several instances throughout the 2014 reporting year in which Chinese authorities reportedly detained and, in some cases, repatriated North Korean refugees to the DPRK:

- **November 2.** South Korean media, citing a source in China, reported that Chinese authorities detained and later repatriated 17 North Korean refugees in the following three locations: Shenyang municipality, Liaoning province; Yanji city, Yanbian Korean Autonomous Prefecture, Jilin province; and Dandong municipality, Liaoning province.¹⁸
- **November 7.** South Korean media, citing a South Korean activist, reported that Chinese authorities near Beijing municipality detained and later repatriated five North Korean refugees.¹⁹
- **November 15.** Chinese authorities reportedly detained between 13 and 15 North Korean refugees, including 2 guides reported to be ethnic Korean Chinese citizens, in Yunnan province.²⁰ As of November 19, South Korean media reported Chinese authorities had transferred the refugees to Liaoning in preparation for repatriation.²¹
- **June 19.** Chinese authorities reportedly detained 11 North Korean refugees in Jilin province.²² As of July 3, a refugee advocacy organization reported authorities continued to detain the refugees in the cities of Yanji and Tumen in Yanbian Korean Autonomous Prefecture, Jilin.²³
- **July 15–17.** Chinese authorities reportedly detained between 20 and 29 North Korean refugees and several others assisting them in Shandong and Yunnan provinces.²⁴ As of July 24, South Korean media indicated the refugees faced repatriation following their transfer by Chinese authorities to a detention center in Tumen.²⁵

- **August 12.** Chinese authorities reportedly detained 11 North Korean refugees in Yunnan along the border with Laos.²⁶

China's heightened efforts to stem the flow of refugees came amid increased political instability in the DPRK. Border security reportedly increased sharply following the execution of Jang Sung-taek, a leading figure in the North Korean government and uncle of DPRK paramount leader Kim Jong-un, in December 2013.²⁷ Christian missionaries and aid groups also reported over the last year that Chinese authorities have been cracking down on "Christian-run NGOs and businesses" working along the China-North Korea border,²⁸ in some cases detaining foreign nationals, including citizens from South Korea,²⁹ Canada,³⁰ and the United States.³¹ International and Chinese Christian communities reportedly have been active in assisting refugees, in some cases running orphanages for refugee children or providing aid to refugees in China.³²

Heightened security on both sides of the China-North Korea border appears to be limiting the outflow of North Korean refugees into China and neighboring countries.³³ According to the South Korean Ministry of Unification, the number of refugees who reached South Korea in 2013 changed only marginally to 1,516 from 1,509 in 2012.³⁴ The low number of arrivals continued a trend that has seen a significant drop in the number of refugees entering South Korea since 2009.³⁵

Trafficking of North Korean Women

Trafficking of North Korean women in China remained a significant problem. China's policy of non-recognition of North Korean refugees and the risks associated with repatriation render North Korean women who illegally enter China unprotected by law and extremely vulnerable to abuse.³⁶ Investigations conducted by the UN COI and other experts estimated that over 70 percent of North Korean refugees leaving the DPRK are women, of whom a high number become trafficking victims, primarily for the purposes of forced marriage or sexual exploitation.³⁷ A sex ratio imbalance in rural areas, particularly in northeast China, has exacerbated the problem by creating a demand for marriageable women.³⁸ China is obligated under the Convention on the Elimination of All Forms of Discrimination against Women and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children to take measures to safeguard trafficking victims and suppress all forms of trafficking of women.³⁹

Children and Denial of Basic Rights

Children born to North Korean women remain largely deprived of basic rights to education and other public services in China.⁴⁰ While several international experts contend that Chinese policies have changed in recent years to allow a greater majority of these children access to education and other social services,⁴¹ China's non-recognition of refugees and the risk of repatriation continue to influence the decision of some parents not to register their child's birth.⁴² China's repatriation of North Korean women who have

given birth to children in China contravenes its obligations under the UN Convention on the Rights of the Child prohibiting separation of children from their parents.⁴³

Notes to Section II—North Korean Refugees in China

¹ Democratic People's Republic of Korea Ministry of State Security, People's Republic of China Ministry of Public Security, Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order in the Border Areas, signed 12 August 86, art. 4, reprinted in North Korea Freedom Coalition. The protocol commits each side to treat as illegal those border crossers who do not have proper visa certificates, except in cases of "calamity or unavoidable factors." According to a report commissioned by the UN High Commissioner for Refugees (UNHCR) the validity of "this document cannot be authenticated, but it does not seem implausible." James D. Seymour, "China: Background Paper on the Situation of North Koreans in China," commissioned by UNHCR, Protection Information Section, January 2005, 13.

² UN Convention Relating to the Status of Refugees (1951 Convention), 28 July 51 by the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429(V) of 14 December 50, arts. 1, 33. Article 1 of the 1951 Convention defines a refugee as someone who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country. . . ." Article 33 of the 1951 Convention mandates that "[n]o Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." UN Protocol Relating to the Status of Refugees (1967 Protocol), adopted by UN General Assembly resolution A/RES/2198 of 16 December 66, entry into force 4 October 67. The Chinese government acceded to the 1951 Convention and the 1967 Protocol in September 1982, but has not adopted legislation to implement the treaties.

³ UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the UN General Assembly 10 December 84, entry into force 26 June 87, art. 3. Article 3 states that "[n]o 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." The Chinese government ratified the Convention on 4 October 88.

⁴ Office of the High Commissioner for Human Rights, "North Korea: UN Commission Documents Wide-Ranging and Ongoing Crimes Against Humanity, Urges Referral to ICC," 17 February 14.

⁵ UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, para. 490.

⁶ UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, paras. 448–449, 1197. Highlighting evidence that Chinese officials provided North Korean authorities with information on detained refugees, including information on "the circumstances and place of their apprehension and contacts they had in China," the UN Commission found that such conduct "could amount to the aiding and abetting of crimes against humanity where repatriations and information exchanges are specifically directed towards or have the purpose of facilitating the commission of crimes against humanity in the DPRK." See also UN Human Rights Council, Report on the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, Annex II—Correspondence with China, A/HRC/25/63, 7 February 14.

⁷ UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, para. 446.

⁸ UN Human Rights Council, Report on the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/63, 7 February 14, para. 84.

⁹ UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, para. 490.

¹⁰ UN Human Rights Council, Report on the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, Annex II—Correspondence with China, A/HRC/25/63, 7 February 14; Hamish Macdonald, "UN Unsure How Findings on Rights Violations Will Be Received," NK News, 6 February 14.

¹¹ *Ibid.*; UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, para. 45.

¹² *Ibid.*

¹³ UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, para. 444. In a December 2013 letter addressed to China's Deputy Permanent Representative to the United Nations Office in Geneva, Commission of Inquiry Chairman Michael Kirby drew attention to a 1995 agreement established between China and the UN Refugee Agency (UN High Commissioner for Refugees or UNHCR) that allowed for "UNHCR to conduct refugee status determination for asylum-seekers." The letter asked for clarification as to why China continued to refuse UNHCR access to areas in China where North Korean refugees are believed to reside, despite China's agreement in the 1995 accord to "allow UNHCR personnel unimpeded access to asylum seekers." See UN Human Rights Council, Report on the Commission of Inquiry

on Human Rights in the Democratic People's Republic of Korea, Annex II—Correspondence with China, A/HRC/25/63, 7 February 14.

¹⁴ UN Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea, Marzuki Darusman, 13 June 14, para. 53.

¹⁵ *Ibid.*

¹⁶ See, e.g., Sun Haiqiang and Zhao Shuai, "Jilin Yanbian Border Defense: More Than 5,000 High-Definition Monitoring Installations Polish Police 'Technology Eyes'" [Jilin yanbian bianfang: 5000 yu ge gaoqing jiankong shebei caliang jingwu "keji shuangmou"], *People's Daily*, 19 November 13; "13 N. Koreans Face Repatriation From China," *Chosun Ilbo*, 19 November 13; "Uncovering the North Korean Border: Panmunjeon Known for Being Most Dangerous, China's Barbed Wire and Security Monitoring" [Jiemi chaoxian bianjing: banmiandian haocheng zui weixian zhongguo jia tiesiwang an jiankong], *Ta Kung Pao*, 21 January 14; Martin Sieff, "North Korea Continues Human Trafficking as China Tightens Border Security," *Asia Pacific Defense Forum*, 4 November 13.

¹⁷ "China 'Repatriates Dozens of N. Korean Defectors,'" *Chosun Ilbo*, 21 November 13; Audrey Yoo, "China Arrested Dozens of North Korean Defectors, Says South Korean Media," *South China Morning Post*, 21 November 13.

¹⁸ "China 'Repatriates Dozens of N. Korean Defectors,'" *Chosun Ilbo*, 21 November 13.

¹⁹ *Ibid.*

²⁰ "13 N. Korean Defectors Caught in China," *Yonhap*, reprinted in *Korean Herald*, 18 November 13; Lee Sang Yong, "Capture in Kunming Causing Grave Concern," *Daily NK*, 18 November 13; Kim Hee-jin, "15 Defectors Nabbed by China Police in Kunming," *Korea JoongAng Daily*, 19 November 13; "Activists: China Arrests North Korean Defectors, Guides in Kunming," *Voice of America*, 18 November 13.

²¹ Lee Sang Yong, "Capture in Kunming Causing Grave Concern," *Daily NK*, 18 November 13; "China 'Repatriates Dozens of N. Korean Defectors,'" *Chosun Ilbo*, 21 November 13; "13 N. Koreans Face Repatriation From China," *Chosun Ilbo*, 19 November 13.

²² "Eleven North Korea Defectors Arrested by China, Face Deportation—Activist," *Reuters*, 2 July 14; Koo Jun Hoe, "11 Defectors in Grave Danger of Repatriation," *Daily NK*, 3 July 14.

²³ Koo Jun Hoe, "11 Defectors in Grave Danger of Repatriation," *Daily NK*, 3 July 14.

²⁴ "N. Korean Defectors, Helpers Arrested in China," *Chosun Ilbo*, 23 July 14; "Seoul Pledges To Save Defectors From Repatriation," *Chosun Ilbo*, 24 July 14; "20 North Korean Refugees Arrested in China Face Repatriation" [20 ming tuobeizhe zai zhongguo beibu mianlin qianfan], *Voice of America*, 23 July 14.

²⁵ "Seoul Pledges To Save Defectors From Repatriation," *Chosun Ilbo*, 24 July 14.

²⁶ "NK Defectors Nabbed Near China-Laos Border," *Yonhap*, reprinted in *Korean Herald*, 12 August 14; "Chinese Public Security Arrests 11 North Korean Refugees" [Zhongguo gongan daibu shiyi ming tuobeizhe], *Radio Free Asia*, 13 August 14.

²⁷ "China Ups Security on Northern Border," *Daily NK*, 12 December 13; John G. Grisafi, "China Ups Security, Conducts Military Training Near N. Korea," *NK News*, 11 December 13; "N. Korean Defectors' Escape Routes Blocked," *Chosun Ilbo*, 13 December 13; "Profile: Chang Song-thaek," *BBC*, 12 December 13.

²⁸ James Pearson and Megha Rajagopalan, "Exclusive: China Police Investigate U.S. Citizen Near Border With North Korea—Source," *Reuters*, 7 August 14; Megha Rajagopalan and James Pearson, "China Cracking Down on Christian Groups Along North Korea Border: Sources," *Reuters*, 11 August 14.

²⁹ Megha Rajagopalan and James Pearson, "China Cracking Down on Christian Groups Along North Korea Border: Sources," *Reuters*, 11 August 14.

³⁰ Kelly Olsen and Tom Hancock, "China Probes Canadian Christians for Alleged Spying," *Agence France-Presse*, reprinted in *Yahoo! News*, 5 August 14.

³¹ James Pearson and Megha Rajagopalan, "Exclusive: China Police Investigate U.S. Citizen Near Border With North Korea—Source," *Reuters*, 7 August 14.

³² Melanie Kirkpatrick and Victor Cha, "China Is Complicit in North Korea's Human Rights Abuses," *Foreign Policy*, 31 July 14; James Pearson and Megha Rajagopalan, "Exclusive: China Police Investigate U.S. Citizen Near Border With North Korea—Source," *Reuters*, 7 August 14; Megha Rajagopalan and James Pearson, "China Cracking Down on Christian Groups Along North Korea Border: Sources," *Reuters*, 11 August 14.

³³ "N. Korean Defectors' Escape Routes Blocked," *Chosun Ilbo*, 13 December 13; UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, paras. 388–89.

³⁴ Republic of Korea Ministry of Unification, Resource Archives: Major Statistics in Inter-Korean Relations, last visited 15 July 14; "More Than 1,500 N. Korean Defectors Arrive in S. Korea in 2013," *Yonhap*, 13 January 14; Jeyup S. Kwaak, "North Korean Refugee Flow Still Suppressed," *Wall Street Journal*, 14 January 14.

³⁵ Republic of Korea, Ministry of Unification, Resource Archives: Major Statistics in Inter-Korean Relations, last visited 15 July 14; Jeyup S. Kwaak, "North Korean Refugee Flow Still Suppressed," *Wall Street Journal*, 14 January 14.

³⁶ "North Korean Visitors" [Chaoxian lai ke], *Southern Metropolitan Weekly*, 20 December 13; UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, paras. 457–458.

³⁷ A 2013 survey by Dr. Courtland Robinson of Johns Hopkins University estimated between 80 and 90 percent of North Korean refugees in the three northeastern provinces of China were women. Courtland Robinson and Keumsoon Lee, "Population Estimation of North Korean Refugees and Migrants and Children Born to North Korean Women in Northeast China: Results From a 2012 Study in Heilongjiang Province," *Korea Institute for National Unification*, 12 March 13, 5; UN Human Rights Council, Report of the Detailed Findings of the Commission

of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, paras. 394, 457.

³⁸ UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, para. 461; Markus Bell, "Empire and Trafficking in Northeast Asia," *Foreign Policy in Focus*, reprinted in *Asia Times*, 5 June 13.

³⁹ Convention on the Elimination of All Forms of Discrimination against Women, adopted and opened for signature, ratification, and accession by UN General Assembly resolution 34/180 of 18 December 79, entry into force 3 September 81, art. 6; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted and opened for signature, ratification, and accession by General Assembly resolution 55/25 of 15 November 2000, entry into force 25 December 03, arts. 6, 9.

⁴⁰ Committee on the Rights of the Child, Concluding Observations on the Combined Third and Fourth Periodic Reports of China, adopted on 29 October 13, CRC/C/CHN/CO/3-4, annex H, para. 81(a-b); Courtland Robinson and Keumsoon Lee, "Population Estimation of North Korean Refugees and Migrants and Children Born to North Korean Women in Northeast China: Results From a 2012 Study in Heilongjiang Province," Korea Institute for National Unification, 12 March 13, 6.

⁴¹ Courtland Robinson and Keumsoon Lee, "Population Estimation of North Korean Refugees and Migrants and Children Born to North Korean Women in Northeast China: Results From a 2012 Study in Heilongjiang Province," Korea Institute for National Unification, 12 March 13, 27.

⁴² Life Funds for North Korean Refugees, Stakeholder Report for the Universal Periodic Review, 4 March 13; UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, paras. 472-474.

⁴³ UN Convention on the Rights of the Child, adopted by the UN General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, art. 9. Article 9 calls on state parties to "ensure that a child shall not be separated from his or her parents against their will." See also UN Human Rights Council, Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, A/HRC/25/CRP.1, 7 February 14, para. 474.