

Congressional-Executive Commission on China

Hearing

on

The PRC's Universal Periodic Review and the Real State of Human Rights in China

2360 Rayburn House Office Building

Thursday, February 1, 2024 - 10:00am

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The issue of North Korean refugees in China's fourth Universal Periodic Review (UPR):

The continuing need to hold Beijing accountable for its decades-long aiding and abetting of North Korea's crimes against humanity, in particular by updating and passing without delay the North Korean Human Rights Reauthorization Act, in light of its 10/9 deportation

China's fourth Universal Periodic Review (UPR) on January 23, 2024 was an important occasion for the international community to raise the grave human rights violations committed by the Chinese government, especially those that occurred or came to light since November 2018. Not surprisingly, given the deteriorating state of human rights in China over the past five years, many countries posed questions and recommendations concerning Xinjiang, Tibet, Hong Kong and China proper during the UPR. I would like to discuss another important, perennial human rights issue that was raised at the UPR, the North Korean refugees in China whose mass deportation to North Korea on October 9, 2023 (10/9 deportation) triggered an international outcry and highlighted yet again China's decades-long aiding and abetting of North Korea's crimes against humanity. Four months prior, on June 13, the Congressional-Executive Commission on China (CECC) in anticipation of China's resumption of forced repatriation of North Koreans that had been stopped by North Korea's COVID-19 border closure since January 2020 held a hearing on the matter in which I was honored to give a testimony.¹

At the UPR on January 23, 2024, several recommendations were made concerning North Korean refugees in China and their forcible repatriation. Czechia made the most straightforward

¹ North Korean Refugees and the Imminent Danger of Forced Repatriation from China (2360 Rayburn House Office Building | Tuesday, June 13, 2023 - 10:00am), <https://www.cecc.gov/events/hearings/north-korean-refugees-and-the-imminent-danger-of-forced-repatriation-from-china>

and robust recommendation to China to “Refrain from the forcible repatriation of North Korean refugees to the DPRK” echoing its previous recommendation during China’s second UPR on October 22, 2013 to “Protect North Korean refugees in accordance with international law, honouring the principle of non-refoulement”. South Korea (Republic of Korea) made three recommendations: “Provide adequate protection to escapees from [sic] foreign origin including the Democratic People’s Republic of Korea”; “Respect relevant international norms such as the principle of non-refoulement”; and “Consider adopting a national refugee law as part of its efforts to implement the 1951 Convention relating to the Status of Refugees”. While the latter two recommendations echoed the earlier ones from China’s second UPR, a direct reference North Korean escapees, notwithstanding the use of the convoluted and grammatically problematic phrase “escapees from [sic] foreign origin including the Democratic People’s Republic of Korea” was unprecedented.

It is also noteworthy that South Korea submitted three written questions in advance to China: “Could China provide information on the asylum procedures that escapees from foreign origin including the Democratic People's Republic of Korea have access to?”; “We would like to ask what measures China is taking to protect and support women escapees from foreign origin including the Democratic People’s Republic of Korea who are exposed to trafficking, forced marriage, and other forms of exploitation”; and “We would like to ask what measures China is taking to protect and support children born in China to women escapees from foreign origin including the Democratic People's Republic of Korea who are categorized as "illegal immigrants" according to the Chinese domestic law”.² This was the first time since North Korea’s first UPR on December 7, 2009 that South Korea submitted written advance questions in any country UPR.

I also note that Canada submitted an advance written question to China in which it expressed its concerns about China’s non-observance of the principle of non-refoulement in relation to North Korean refugees: “How is the Government adhering to the principle of non-refoulement set out in Article 3 of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, particularly with regard to North Koreans?” The United Kingdom (“Cease the restriction of civil society and independent media, end forced repatriations, and stop targeting human rights defenders”), Uruguay (“Strengthen measures to guarantee the protection of asylum seekers and their non- refoulement”) and Afghanistan (“Observe the international principle of non-refoulement and provide protection to migrants and refugees”) also appeared to have touched upon the issue without naming North Korea.

² Questions submitted in advance and Addendum,
https://uprmeetings.ohchr.org/Sessions/45/China/DL_UPRDocuments/Advance%20Questions%20-%20China.docx

These UPR questions and recommendations clearly show that the North Korean refugees in China and their forced repatriation firmly remain an issue of international interest and concern. This is rightly so. Ten years ago, the Commission of Inquiry on Human Rights in the DPRK (COI DPRK) wrote a letter to the Chinese government expressing “particular concern about Chinese officials providing specific information on such persons to DPRK authorities” and urging it “to caution relevant officials 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”.

The COI also recommended China and other states to “Respect the principle of non-refoulement. Accordingly, abstain from forcibly repatriating any persons to the Democratic People’s Republic of Korea, unless the treatment there, as verified by international human rights monitors, markedly improves. Extend asylum and other means of durable protection to persons fleeing the Democratic People’s Republic of Korea who need international protection. Ensure that such persons are fully integrated and duly protected from discrimination. Stop providing information on activities and contacts of persons from the Democratic People’s Republic of Korea living in China to the State Security Department and other security agencies in the Democratic People’s Republic of Korea. Allow persons from the Democratic People’s Republic of Korea free access to diplomatic and consular representations of any state that may be willing to extend nationality or other forms of protection to them”. There is no indication that the treatment of repatriated North Koreans has improved, markedly or otherwise and yet China continues with its forcible repatriation in manifest violation of the principle of non-refoulement as its 10/9 deportation demonstrates. We note that the hundreds of those sent back to North Korea in the 10/9 deportation included a family of South Korean prisoner of war (POW) from the Korean War, highlighting China’s well-recorded practice of deporting South Korean POWs and their families like other refugees.

Although the United States did not ask questions or make recommendations concerning the issue of North Korean refugees in this UPR, it has been at the forefront of raising it in the international arena, beginning with the passage of the North Korean Human Rights Act of 2004 twenty years ago. At the summit statement of April 26, 2023, the United States and South Korea pledged to “strengthen cooperation to promote human rights in the DPRK as well as to resolve the issues of abductions, detainees, and unrepatriated prisoners of war”.³ This commitment was repatriated in the trilateral summit statement that included Japan (“[Japan, the ROK, and the

³ Leaders’ Joint Statement in Commemoration of the 70th Anniversary of the Alliance between the United States of America and the Republic of Korea (APRIL 26, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/04/26/leaders-joint-statement-in-commemoration-of-the-70th-anniversary-of-the-alliance-between-the-united-states-of-america-and-the-republic-of-korea/>

United States] also commit to strengthening cooperation to promote respect for human rights in the DPRK and reaffirm a shared commitment to the immediate resolution of the issues of abductees, detainees, and unrepatriated prisoners of war.”⁴

There are currently two bipartisan bills to reauthorize the North Korean Human Rights Act pending before the Senate and House respectively. However, both these bills have been introduced prior to China’s resumption of North Korean refugees in the past few months.

I therefore respectfully ask that the members of Congress:

(1) become co-sponsors of the North Korean Human Rights Reauthorization Act of 2023 if they have not already;

(2) update the pending bills to condemn China’s resumption and continuation of forcible repatriation of North Korean refugees, most notably the 10/9 deportation of hundreds of North Korean refugees, including South Korean POWs and their families; and

(3) speedily pass the North Korean Human Rights Act of 2023, among other things to reaffirm America’s commitment to promote respect for human rights in the DPRK and to resolve the issues of abductions, detainees, and unrepatriated prisoners of war

Thank you.

⁴ The Spirit of Camp David: Joint Statement of Japan, the Republic of Korea, and the United States (AUGUST 18, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/08/18/the-spirit-of-camp-david-joint-statement-of-japan-the-republic-of-korea-and-the-united-states/>