NORTH KOREAN REFUGEES IN CHINA

Introduction

Throughout the Commission’s 2015 reporting year, the Chinese government continued to detain and repatriate North Korean refugees to the Democratic People’s Republic of Korea (DPRK), despite substantial evidence that repatriated persons face torture, imprisonment, and other inhuman treatment.1 The Chinese government maintains that North Koreans who enter China without proper documentation are illegal economic migrants and continues to forcibly repatriate them based on a 1961 treaty and 1986 border protocol with the DPRK.2 China’s repatriation of North Korean refugees contravenes its international obligations under the 1951 UN Convention relating to the Status of Refugees (1951 Convention) and its 1967 Protocol.3 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.”4

The UN Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea has called “the current handling of the movement of people across [the China-North Korea border] far from ideal,” stating that the present situation “can easily lead to abuses.”5 Despite being a State Party to both the 1951 Convention and 1967 Protocol, China has not enacted formal legislation or administrative provisions for determining the status of refugees and granting asylum.6

China continues to be a main transit point for North Korean refugees.7 Information on the number of North Korean refugees residing in China remains difficult to ascertain due in part to the Chinese government’s refusal to allow the UN High Commissioner for Refugees access to these North Korean refugees.8 A resolution adopted by the UN General Assembly in December 2014 called on all States “to ensure unhindered access to the UN High Commissioner for Refugees and his Office [to North Korean refugees].”9

Increased Border Security

Throughout the reporting year, heightened security and instability along the China-North Korea and China-Southeast Asia borders increased the dangers North Korean refugees face. Chinese authorities reportedly strengthened security along the China-North Korea border following three incidents between September 2014 and April 2015 in which rogue North Korean soldiers killed at least 10 Chinese citizens.10 In June 2015, Chinese border guards shot and killed an unidentified North Korean border crosser.11 A South Korean media outlet identified the border crosser as a North Korean civilian and indicated Chinese border security was operating under new orders to shoot all illegal border crossers refusing arrest.12 Concerns over cross-border drug smuggling and human trafficking have also reportedly led Chinese authorities to install new barbed-wire fencing.13

Along the border with Southeast Asia, Chinese authorities reportedly stepped up efforts to combat illegal border crossings. In a
case reported by South Korean media in October 2014, Chinese authorities detained 11 North Koreans as they attempted to cross into Burma from Yunnan province.\textsuperscript{14} International experts indicate that Southeast Asia remains a main transit point for North Korean refugees, with a large number of refugees reportedly passing through the region en route to South Korea.\textsuperscript{15} In January 2015, Chinese authorities reported that a campaign initiated in May 2014 had uncovered several hundred human trafficking cases along the border with Southeast Asia and resulted in the detention of over a thousand unidentified persons.\textsuperscript{16}

Heightened border security could be limiting the outflow of refugees from the DPRK, as demonstrated by the smaller number of refugees reaching South Korea. According to the South Korean Ministry of Unification, the number of refugees who reached South Korea decreased from 1,514 in 2013 to 1,397 in 2014,\textsuperscript{17} continuing the trend of a significant decline in the number of refugees entering South Korea since 2011.\textsuperscript{18}

\textbf{Crackdown on Foreign Aid Workers}

A reported crackdown by Chinese and North Korean authorities this past year on organizations and individuals assisting North Korean refugees has made it increasingly difficult for refugees to flee the DPRK. Individuals and groups including foreign aid workers, Christian missionaries, South Korean churches, and non-governmental organizations have had a crucial role in assisting and facilitating the movement of North Korean refugees outside the DPRK.\textsuperscript{19} Greater scrutiny and monitoring by Chinese authorities has reportedly led to the closure of many aid groups operating within China\textsuperscript{20} and resulted in the detention of several foreign nationals, highlighted below.

- **Peter Hahn.** Chinese authorities formally arrested Peter Hahn, a U.S. citizen, in December 2014 reportedly on charges of “embezzlement and counterfeiting receipts.”\textsuperscript{21} Hahn reportedly ran a Christian aid agency in Tumen city, Yanbian Korean Autonomous Prefecture, Jilin province, and had previously managed several projects that provided assistance to North Koreans, including refugees.\textsuperscript{22} Authorities released Hahn on August 17, 2015, on the basis of time served, after he received a nine-month sentence for “counterfeiting receipts.”\textsuperscript{23}

- **Kevin and Julia Garratt.** Chinese authorities placed Kevin and Julia Garratt, Canadian citizens, under “residential surveillance” beginning in August 2014 on “suspicion of engaging in activities endangering national security.”\textsuperscript{24} In February 2015, authorities criminally detained Kevin on “suspicion of stealing national secrets,” while Julia was released on bail.\textsuperscript{25} They operated a coffee shop near the North Korean border in Liaoning province, and were reportedly involved with organizations assisting North Koreans and sheltering refugees from the DPRK.\textsuperscript{26}

\textbf{Trafficking of North Korean Women}

North Korean women who enter China illegally remain particularly vulnerable to human trafficking. Experts indicate that the
majority of North Korean refugees entering China are women, with some estimates suggesting that between 70 and 90 percent become victims of human trafficking. The Chinese government’s refusal to recognize these women as refugees denies them legal protections and encourages the trafficking of North Korean women and girls within China. The demand for trafficked women has been linked to a sex ratio imbalance in China driven by the Chinese government’s population planning policies. Many women are trafficked by force or deception from the DPRK into or within China for the purposes of forced marriage. In other cases, women become victims of sex trafficking and are forced into commercial sexual exploitation. 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 in women.

Children

Many children born to Chinese fathers and North Korean mothers remain deprived of basic rights to education and other public services, owing to a lack of legal resident status in China. The PRC Nationality Law provides that all children born in China are entitled to Chinese nationality if either parent is a Chinese citizen. Despite this stipulation, Chinese authorities in practice continue to largely deprive these children of their rights to birth registration and nationality. Without proof of resident status, these children are unable to access education and other public services. In some cases, bribery of local officials has allowed some children to obtain identification documents, but the bribes are reportedly high and attempting to negotiate with local officials risks exposing the North Korean mother to arrest and repatriation. The denial of nationality rights and access to education for these children contravenes China’s obligations under international law, including the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights.
Notes to Section II—North Korean Refugees in China


2 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.”

3. Article 3 states that, “No Contracting State shall expel, return (‘refouler’) or extradite a person to 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.”

4. Article 33 of the 1951 Convention mandates that, “No 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.”

5. UN Convention Relating to the Status of Refugees (1951 Convention), adopted on 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, entry into force 22 April 54, 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.”

6. Article 3 states that, “No Contracting State shall expel or return (‘refouler’) or extradite a person to any other State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”

7. Justice Department, “Refugees Commissioned by UNHCR, Protection Information Section, January 2005, 13. According to a report commissioned by the UN High Commissioner for Refugees (UNHCR), the validity of “[the Protocol] cannot be authenticated, but it does not seem implausible.”


17 Ibid.


23 Ministry of Foreign Affairs, “February 5, 2015, Ministry of Foreign Affairs Spokesman Hong Lei Holds Routine Press Conference” [2015 nian 2 yue 5 ri waiwaishu jiangren hong lei zhuchu lixing jinzhuhui], 5 February 15.

24 Ibid.


27 Ibid.


34 Convention on the Rights of the Child, adopted by General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, arts. 21, 7, 28(a). Under the Convention on the Rights of the Child, China is obligated to register children born within the country immediately after birth and also provide all children with access to education without discrimination.
on the basis of nationality. International Covenant on Economic, Social and Cultural Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 13. Under Article 13, China recognizes that everyone has a right to education, including a free and compulsory primary education.