

CECC Annual Report 2021

KEY FINDINGS

NORTH KOREAN REFUGEES IN CHINA

- During the Commission’s 2021 reporting year, the Chinese government continued to detain North Korean refugees in China and attempt to forcibly repatriate them to the Democratic People’s Republic of Korea (DPRK), where they face severe punishment, including torture, imprisonment, forced labor, and even execution. The forced repatriation of North Korean refugees violates China’s obligations under international human rights and refugee law, and may amount to “aiding and abetting crimes against humanity.”
- The majority of North Korean refugees escape to South Korea via China and Southeast Asian countries. During the past year, however, border controls resulting from the COVID-19 pandemic dramatically reduced the flow of migrants to China, and onward to third countries. The South Korean government reported that about 229 North Korean refugees escaped to South Korea in 2020, a 78 percent drop from 2019, and a 92 percent drop from the 2009 peak.
- South Korean missionaries and organizations have played a crucial role in assisting and facilitating the movement of North Korean refugees in China. Chinese authorities’ crackdown on and expulsion of South Korean missionaries in recent years have undermined refugee rescue work carried out by the missionaries.
- The majority of North Korean refugees leaving the DPRK are women. The Chinese government’s refusal to recognize these women as refugees denies them legal protection and exposes them to the risk of being trafficked within China. The Chinese government may also be complicit in the forced labor of women sent by the DPRK government to work in China.
- Many children born to Chinese fathers and North Korean mothers remain deprived of basic rights to education and other public services, owing to their lack of legal resident status in China, which constitutes a violation of the PRC Nationality Law and the Convention on the Rights of the Child.

I. Human Rights

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Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Reauthorize the North Korean Human Rights Act of 2004 (Public Law No. 108–333), currently authorized only through FY2022.
- Appoint and confirm the U.S. Special Envoy on North Korean Human Rights Issues, and encourage the Special Envoy to work with South Korean counterparts to coordinate efforts related to humanitarian assistance and human rights promotion for North Korean refugees in China, in accordance with the North Korean Human Rights Reauthorization Act (Public Law No. 115–198).

- Urge the Chinese government to recognize North Koreans in China as refugees, and more specifically, as refugees *sur place* who fear persecution upon return to their country of origin regardless of their reason for leaving the DPRK; immediately halt the forced repatriation of North Korean refugees; adopt asylum or refugee legislation and incorporate the principle of non-refoulement into domestic legislation; establish a responsible government institution and mechanism to determine asylee or refugee status for North Koreans seeking international protection in China, in cooperation with the UN High Commissioner for Refugees; and allow North Korean refugees safe passage to another country, including to the Republic of Korea.
- Consider using the suite of sanctions that are available, where appropriate, against Chinese government agencies and individuals involved in the forced repatriation of North Korean refugees; and press for increased international monitoring of and accountability for the Chinese government's treatment of refugees.
- Urge Chinese authorities to recognize the legal status of North Korean women who marry or have children with Chinese citizens, and ensure that all such children are granted resident status and access to education and other public services in accordance with Chinese law and international standards.

NORTH KOREAN REFUGEES IN CHINA

Introduction

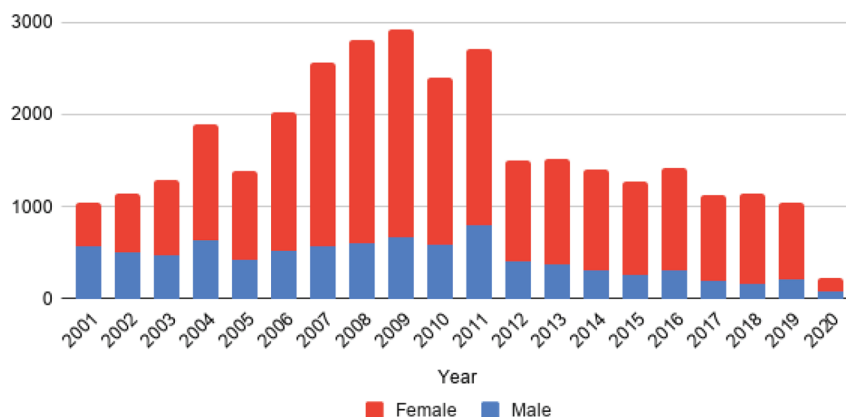
The Chinese government regards North Korean refugees in China as illegal migrants and maintains a policy of forcible repatriation based on a 1998 border protocol with the Democratic People's Republic of Korea (DPRK),¹ although the COVID-19 pandemic has halted such forced repatriations during the Commission's 2021 reporting year.² Despite the temporary halt to forced repatriations, the government's policy persists in the face of substantial evidence that repatriated North Koreans face torture, imprisonment, forced labor, execution, and other inhuman treatment.³ The DPRK government's treatment of forcibly repatriated refugees renders North Koreans in China refugees *sur place* who fear persecution upon return to their country of origin, regardless of their reason for leaving the DPRK.⁴

The Chinese government's forced repatriation of North Korean refugees contravenes its international obligations under the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, to which China has acceded.⁵ China is also obligated under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to refrain from forcibly repatriating persons if there are "substantial grounds for believing that [they] would be in danger of being subjected to torture."⁶

Border Conditions and Forced Repatriation of Refugees

In 2020, 229 North Korean refugees reached South Korea, the lowest total in any year since South Korea's Ministry of Unification began recording arrivals in 1998.⁷ The figure represents a 78 percent drop from 2019, and a 92 percent drop from the 2009 peak.⁸ Refugee flows had decreased prior to 2020, in part due to the imposition of stricter border controls by Chinese and DPRK authorities,⁹ but experts attributed the large further drop in 2020 primarily to the DPRK's decision to seal its borders to forestall the COVID-19 pandemic.¹⁰ Despite the DPRK government's closure of its borders, the Chinese government continued to attempt forced repatriation of North Koreans.¹¹

South Korean Ministry of Unification: Number of North Korean Defectors Entering South Korea



The DPRK began to shut its border with China in January 2020,¹² drastically limiting the flow of both goods and people to prevent the spread of COVID-19,¹³ and issued orders for border guards to fire upon anyone discovered within a kilometer of the China-North Korea border, with warning shots to be followed by shots using live ammunition.¹⁴ Despite the adverse effect on the North Korean economy, as of July 1, 2021, the DPRK government had not loosened border controls.¹⁵ One organization that specializes in moving refugees across the border and eventually to South Korea reported that the fees charged by smugglers to facilitate a crossing have climbed so high that even attempts to rescue North Koreans in imminent danger have become difficult.¹⁶ Strengthened border controls between China and Southeast Asian countries—a popular escape route for refugees—have also impeded refugees attempting to reach South Korea, as has a reduced number of flights between South Korea and countries such as Thailand or Laos.¹⁷

Foreign Aid Work

During this reporting year, the Commission continued to observe reports of Chinese authorities suppressing organizations and individuals, particularly South Korean Christian churches and missionaries, that evangelize North Korean refugees or facilitate their departure from the DPRK. The volume of reports was less than in previous years, likely owing to a number of factors, including:

- The DPRK government's closure of its border with China due to COVID-19;¹⁸
- A more difficult environment for independent reporting within China;¹⁹
- Expulsions of a large number of foreign missionaries prior to this reporting year, which one international advocacy group called the largest since 1954.²⁰

Chinese authorities also continued to impose harsh penalties on South Korean missionary organizations active inside China, and considered new restrictions that could hamper foreign missionaries' movement into and within China.²¹

Trafficking of North Korean Women

North Korean women who enter China illegally remain particularly vulnerable to human trafficking. Observers have linked the trafficking of North Korean women to a sex-ratio imbalance in China exacerbated by the Chinese government's past population planning policies.²² Data from South Korea's Ministry of Unification suggest that since 1998, the majority of North Korean refugees leaving the DPRK are women, who reports indicate have been trafficked in China for the purposes of forced marriage and commercial sexual exploitation.²³

The Chinese government's refusal to recognize these women as refugees denies them legal protection and exposes them to the risk of being trafficked within China.²⁴ It also leaves the women vulnerable to forcible repatriation to North Korea, where the UN Office of the High Commissioner for Human Rights has found they are likely to be subject to profound abuse as punishment for their escape.²⁵

Forced Labor by North Korean Women inside China
North Korean women who are not refugees, but rather are dispatched to China by the DPRK government are vulnerable to commercial exploitation and forced labor inside China. ²⁶ One investigation by the Guardian newspaper found several Chinese factories near the North Korean border employing "hundreds of North Korean women . . . secretly working in conditions of modern slavery" to produce protective medical clothing for export. ²⁷ The UN has previously found arrangements of this nature to be state-sponsored export of forced labor. ²⁸

Children of North Korean and Chinese Parents

A lack of legal resident status in China means that many of the children born to Chinese fathers and North Korean mothers remain deprived of basic rights to education and other public services. According to some estimates, the total number of children born in China to North Korean women ranges between 20,000 and 30,000.²⁹ Despite the fact that the PRC Nationality Law provides that all children born in China are entitled to Chinese nationality if either parent is a Chinese citizen,³⁰ parents of such children are often unable to obtain birth registration or nationality documents.³¹ Without this proof of resident status, these children often find it difficult to access education and other public services.³² The denial of nationality rights and access to education for these children contravenes China's obligations under the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights.³³

Notes to Section II—North Korean Refugees in China

¹ UN General Assembly, Report on the Situation of Human Rights in the Democratic People's Republic of Korea, A/74/268, August 2, 2019; UN Office of the High Commissioner for Human Rights, "Committee on the Elimination of Racial Discrimination Reviews the Report of China," August 13, 2018. The UN Committee on the Elimination of Racial Discrimination expressed concern that "China continued to deny refugee status to asylum-seekers from the Democratic People's Republic of Korea and it also continued to forcibly return them to their country of origin, regardless of a serious threat of persecution and human rights violations." Democratic People's Republic of Korea Ministry of State Security and People's Republic of China Ministry of Public Security, *Zhonghua Renmin Gongheguo Gong'anbu Chaoxian Minzhu Zhuyi Renmin Gongheguo Guojia Baoweibu Guanyu Zai Bianjing Diqu Weihu Guojia Anquan He Shehui Zhixu De Gongzuo Zhong Xianghu Hezuo De Yidingshu*, [Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order in the Border Areas], signed July 8, 1998, effective August 28, 1998, arts. 4, 9. The protocol commits each side to treat as illegal those border crossers who do not have proper visa certificates, except in cases involving "calamity or unavoidable factors."

² Mun Dong Hui, "N. Korea Still Rejecting Chinese Proposals to Repatriate Defectors," *Daily NK*, October 15, 2020; Jong So Yong, "N. Korea Refuses Repatriation of Defectors Imprisoned in Dandong," *Daily NK*, March 4, 2020; Jeongmin Kim, "Pregnant North Korean Woman and Teenage Girl Face Possible Repatriation in China," *NK News*, December 31, 2020.

³ UN General Assembly, Report on the Situation of Human Rights in the Democratic People's Republic of Korea, A/74/268, August 2, 2019; Amnesty International, "North Korea 2020," accessed April 3, 2021; UN Office of the High Commissioner for Human Rights, "I Still Feel the Pain . . . ' Human Rights Violations against Women Detained in the Democratic People's Republic of Korea," July 28, 2020, paras. 23, 65, 67, 80.

⁴ UN High Commissioner for Refugees, "UNHCR, Refugee Protection and International Migration," January 17, 2007, paras. 20–21; Human Rights Watch, "China: Protect 7 North Koreans Fleeing Oppression," May 14, 2019; Roberta Cohen, "Legal Grounds for Protection of North Korean Refugees," Brookings Institution, September 13, 2010.

⁵ Convention Relating to the Status of Refugees, adopted by the UN Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons on July 28, 1951, entry into force April 22, 1954, arts. 1(A)(2), 33(1). Article 1 of the 1951 Convention, as amended by the 1967 Protocol, 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, "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." United Nations Treaty Collection, Chapter V, Refugees and Stateless Persons, Convention Relating to the Status of Refugees, accessed April 1, 2021. China acceded to the Convention Relating to the Status of Refugees on September 24, 1982. Protocol Relating to the Status of Refugees, adopted by UN General Assembly resolution A/RES/2198 of December 16, 1966, entry into force October 4, 1967, art. 1; United Nations Treaty Collection, Chapter V, Refugees and Stateless Persons, Protocol Relating to the Status of Refugees, accessed April 1, 2021. China acceded to the Protocol Relating to the Status of Refugees on September 24, 1982.

⁶ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by UN General Assembly resolution 39/46 of December 10, 1984, entry into force June 26, 1987, art. 3. Article 3 states 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." United Nations Treaty Collection, Chapter IV, Human Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, accessed April 1, 2021. China signed the Convention on December 12, 1986, and ratified it on October 4, 1988. UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China, adopted by the Committee at its 1391st and 1392d Meetings (2–3 December 2015), CAT/C/CHN/CO/5, February 3, 2016, para. 46.

⁷ Ministry of Unification, Republic of Korea, "Policy on North Korean Defectors," accessed April 7, 2021. The Ministry of Unification does not provide the number of North Korean defectors for the years 1999 and 2000.

⁸ Ministry of Unification, Republic of Korea, "Policy on North Korean Defectors," accessed April 7, 2021. The Ministry of Unification does not provide the number of North Korean defectors for the years 1999 and 2000.

⁹ Jane Lee, "The Closing Door: North Korean Refugees Losing Escape Routes through Southeast Asia," Center for Strategic and International Studies, *CogitAsia* (blog), February 20, 2020; Amnesty International, "North Korea 2020," accessed July 2, 2020.

¹⁰ Robert King, "Number of North Korean Defectors Drops to Lowest Level in Two Decades," Center for Strategic and International Studies, January 27, 2021.

¹¹ Mun Dong Hui, "N. Korea Still Rejecting Chinese Proposals to Repatriate Defectors," *Daily NK*, October 15, 2020; Jong So Yong, "N. Korea Refuses Repatriation of Defectors Imprisoned in Dandong," *Daily NK* (blog), March 4, 2020.

¹² Miriam Berger and Simon Denyer, "North Korea Bans Foreign Tourists as Coronavirus Spreads," *Washington Post*, January 21, 2020.

¹³ Laura Bicker, "Kim Jong-Un Warns of North Korea Crisis Similar to Deadly 90's Famine," *BBC*, April 9, 2021.

¹⁴ Ha Yoon Ah, "North Korean Smuggler Shot Dead While Crossing Border," *Daily NK*, September 21, 2020; Martin Weiser, "North Korea's Mistranslated 'Shoot-to-Kill' Border Protection Order," East Asia Forum, February 27, 2021.

¹⁵Kim Tong-Hyung, “State Media: Kim Has Plans to Stabilize N. Korean Economy,” *Associated Press*, June 8, 2021.

¹⁶Seung Wook Hong and Eugene Whong, “Flow of North Korean Refugees into South Korea Decreases amid COVID-19 Controls,” *Radio Free Asia*, October 22, 2020.

¹⁷Bertil Lintner, “Covid-19 Unleashes New Wave of North Korean Refugees,” *Asia Times*, November 23, 2020.

¹⁸Miriam Berger and Simon Denyer, “North Korea Bans Foreign Tourists as Coronavirus Spreads,” *Washington Post*, January 21, 2020; Victor Cha, “Opinion: Covid Helped Isolate North Korea in a Way Sanctions Never Could. What Now?,” *NBC News*, February 10, 2021; Laura Bicker, “Kim Jong-Un Warns of North Korea Crisis Similar to Deadly 90’s Famine,” *BBC*, April 9, 2021.

¹⁹Fu Yue, “Foreign Correspondents in China Face Growing Restrictions,” *Deutsche Welle*, March 11, 2021; “BBC China Correspondent John Sudworth Moves to Taiwan after Threats,” *BBC*, March 31, 2021; “China Slams Foreign Correspondents Club as ‘Illegal Organization,’” *Bloomberg*, April 2, 2021.

²⁰International Christian Concern, “Expulsion of Foreign Missionaries in China Has Greatly Increased,” February 13, 2019; Ha Yoon Ah, “Many Churches Assisting North Korean Defectors in China Close, Missionaries Say,” *Daily NK*, February 8, 2019.

²¹Shen Hua, “China Proposes New Restrictions on Foreigners, Religious Services,” *Voice of America*, December 2, 2020; Changlin Deng, “Religious Books Burned or Trashed, Printers Jailed,” *Bitter Winter*, December 15, 2020.

²²See, e.g., Heather Barr, “China’s Bride Trafficking Problem,” *The Diplomat*, October 30, 2019; Desmond Ng, Ikhwan Rivai, and Melissa Chi, “Raped, Beaten and Sold in China: Vietnam’s Kidnapped Young Brides,” *Channel News Asia*, August 3, 2019. See also Robbie Gramer and Bethany Allen-Ebrahmanian, “With Human Trafficking Report, Tillerson Rebukes China on Human Rights,” *Foreign Policy*, June 27, 2017; Yoon Hee-soon, Korea Future Initiative, “Sex Slaves: The Prostitution, Cybersex & Forced Marriage of North Korean Women & Girls in China,” May 20, 2019.

²³Ministry of Unification, Republic of Korea, “Policy on North Korean Defectors,” accessed April 3, 2021; United Nations Human Rights Office of the High Commissioner, “Human Rights Violations against Women Detained in the Democratic People’s Republic of Korea” July 28, 2020, 9, 54; UN Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, A/HRC/43/58, February 25, 2020. See also Yoon Hee-soon, Korea Future Initiative, “Sex Slaves: The Prostitution, Cybersex & Forced Marriage of North Korean Women & Girls in China,” May 20, 2019.

²⁴United Nations Human Rights Office of the High Commissioner, “Human Rights Violations against Women Detained in the Democratic People’s Republic of Korea” July 28, 2020; UN Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, A/HRC/43/58, February 25, 2020; Human Rights Watch, Phil Robertson, “North Korean Refugees Trapped by China’s Expanding Dragnet,” September 18, 2017; Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of December 10, 1948, art. 13.

²⁵United Nations Human Rights Office of the High Commissioner, “Human Rights Violations against Women Detained in the Democratic People’s Republic of Korea,” July 28, 2020, paras. 23, 65, 67, 80.

²⁶“North Koreans Sent Abroad into ‘Forced Labour’, Says United Nations,” *BBC*, October 29, 2015; Oliver Cushing, Rights^{DD}, “North Korean Forced Labour in China. What to Look for in Your Supply Chain.,” accessed July 2, 2021.

²⁷Pete Pattison, Ifang Bremer, and Annie Kelly, “UK Sourced PPE from Factories Secretly Using North Korean Slave Labour,” *Guardian*, November 20, 2020.

²⁸“North Koreans Sent Abroad into ‘Forced Labour’, Says United Nations,” *BBC*, October 29, 2015.

²⁹Kim Kwang-tae, “Journey to Freedom by N. Korean Victims of Human Trafficking,” *Yonhap News Agency*, December 22, 2017; Rachel Judah, “On Kim Jong-un’s Birthday, Remember the 30,000 Stateless Children He Has Deprived of Recognition,” *Independent*, January 7, 2018.

³⁰*Zhonghua Renmin Gongheguo Guoji Fa* [PRC Nationality Law], passed and effective September 10, 1980, art. 4. Article 4 of the PRC Nationality Law provides that, “Any person born in China whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality.”

³¹Jenna Yoojin Yun, “30,000 North Korean Children Living in Limbo in China,” *Guardian*, February 5, 2016; Seulkee Jang, “China Is Tightening Control over N. Korean Female Migrants,” *Daily NK* (blog), January 15, 2020.

³²UN Human Rights Council, Report of the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea, A/HRC/43/58, para. 36, February 25, 2020; Crossing Borders, “North Korean Orphans,” accessed April 2, 2021.

³³Convention on the Rights of the Child, adopted by UN General Assembly resolution 44/25 of November 20, 1989, entry into force September 2, 1990, arts. 2, 7, 28(1)(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 to provide all children with access to education without discrimination on the basis of nationality. International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of December 16, 1966, entry into force March 23, 1976, art. 24.