

NORTH KOREAN REFUGEES IN CHINA

Introduction

During the Commission's 2017 reporting year, the Chinese government's policy of detaining North Korean refugees and repatriating them to the Democratic People's Republic of Korea (DPRK) remained in place, despite substantial evidence that repatriated persons face torture, imprisonment, execution, and other inhuman treatment.¹ The Chinese government regards North Koreans who enter China without proper documentation as illegal economic migrants² and maintains a policy of forcible repatriation based on a 1998 border protocol with the DPRK.³ China's repatriation of North Korean refugees contravenes its international obligations under the 1951 UN Convention Relating to the Status of Refugees and the Convention's 1967 Protocol, to which China has acceded.⁴ China is also obligated under the 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."⁵

Repatriation of Refugees and Border Conditions

This past year, heightened security measures along the China-North Korea and China-Southeast Asia borders increased the risks North Korean refugees face, and may be limiting the outflow of refugees from the DPRK. South Korean Ministry of Unification data reportedly showed that 1,414 refugees reached South Korea in 2016, continuing the trend of a significant decline in the number of refugees entering South Korea since 2009.⁶ International news media reported cases in which Chinese authorities detained North Korean refugees, causing concerns that authorities planned to repatriate them.

- **November 2016.** Chinese authorities reportedly detained over 30 North Korean refugees in Shenyang municipality, Liaoning province, while they were in transit to Southeast Asia.⁷ South Korean media reported that authorities later transferred the refugees to Dandong municipality, Liaoning—near the North Korean border—possibly in preparation for repatriation.⁸
- **March 2017.** Chinese authorities reportedly detained in total about 20 North Korean refugees in the following four locations: Hubei province;⁹ Shenyang, Liaoning; Tianjin municipality; and an unknown location near the China-Laos border.¹⁰
- **June 2017.** According to Human Rights Watch, Chinese authorities detained five North Korean refugees near Yanji city, Yanbian Korean Autonomous Prefecture (KAP), Jilin province.¹¹
- **July 2017.** According to South Korean news media Chosun Ilbo, Chinese authorities detained in total 43 North Korean refugees in the following three locations: 27 in Yunnan province; 5 in the Guangxi Zhuang Autonomous Region; and 11 in Jilin.¹² The five members of a North Korean refugee family detained in Yunnan, including a former senior North Korean Workers' Party official, reportedly committed suicide after Chi-

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nese authorities transferred them to Shenyang, Liaoning, for deportation.¹³ Moreover, according to a Daily NK report, Chinese authorities repatriated 70 North Korean refugees who were held in Tumen city, Yanbian KAP, Jilin.¹⁴

The North Korean government's imprisonment and torture of repatriated North Koreans render North Koreans in China *refugees sur place* who fear persecution upon return to their country of origin.¹⁵ In July 2017, Tomás Ojea Quintana, UN Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, voiced his concern over the increase in the number of detentions and repatriations of North Koreans refugees caught in China, urging the Chinese government to abide by its obligations under the 1951 UN Convention Relating to the Status of Refugees and to give "special protection to DPRK citizens who transit through China's territory."¹⁶ In response, China's Ministry of Foreign Affairs spokesperson Lu Kang stated that "North Koreans who illegally enter Chinese territory are not refugees," and that "the Chinese government has properly addressed the issue . . . in accordance with domestic and international laws and humanitarian principles."¹⁷

Crackdown on Foreign Aid Workers

During this reporting year, Chinese authorities appeared to have intensified crackdowns on organizations and individuals—including foreign aid workers, Christian missionaries and churches, and non-governmental organizations—that have played a crucial role in assisting and facilitating the movement of North Korean refugees outside the DPRK.

- **December 2016.** Chinese authorities reportedly deported more than 30 South Korean citizens, including Christian missionaries, who were based in Yanbian Korean Autonomous Prefecture (KAP), Jilin province.¹⁸ According to United Press International, some of these South Koreans "were known to have been involved in assisting North Korean defectors," and a South Korean diplomatic source described the simultaneous deportation of this many South Korean citizens as "unprecedented."¹⁹

- **January 2017.** According to international media reports, Chinese authorities deported 32 South Korean missionaries, who were based in Yanji city, Yanbian KAP.²⁰ Many of the missionaries reportedly provided assistance to North Korean refugees to escape to South Korea.²¹

- **February 2017.** Chinese authorities reportedly detained four people, including a South Korean missionary and a Korean-American pastor, at a hotel in Yanji.²² According to international media reports, Chinese authorities also detained two South Korean pastors and their family members in Qingdao municipality, Shandong province, and Qinhuangdao municipality, Hebei province, respectively.²³ Chinese authorities reportedly accused the pastors of "human smuggling," for assisting North Korean refugees at risk of repatriation.²⁴

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Trafficking of North Korean Women

North Korean women who enter China illegally remain particularly vulnerable to human trafficking. The demand for trafficked North Korean women has been linked to a sex ratio imbalance in China exacerbated by the Chinese government's population planning policies.²⁵ Sources indicate that the majority of North Korean refugees—approximately 70 to 80 percent—leaving the DPRK are women,²⁶ many of whom are trafficked by force or deception from the DPRK into or within China for the purposes of forced marriage and commercial sexual exploitation.²⁷ The Chinese government's refusal to recognize these women as refugees denies them legal protection and is thought to encourage the trafficking of North Korean women and girls within China.²⁸ 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.²⁹ [For more information on the sex ratio imbalance and trafficking of women in China, see Section II—Population Control and Section II—Human Trafficking.]

Children of North Korean and Chinese Parents

Many children born to Chinese fathers and North Korean mothers remain deprived of basic rights to education and other public services, owing to the children's lack of legal resident status in China. According to some estimates, the population of children born in China to North Korean women ranges between 20,000 and 30,000.³⁰ The PRC Nationality Law provides that all children born in China are entitled to Chinese nationality if either parent is a Chinese citizen.³¹ Chinese authorities reportedly continue to largely deprive these children of their rights to birth registration and nationality.³² Without proof of resident status, these children are unable to access education and other public services.³³ In some cases, bribery of local officials reportedly has allowed some children to obtain identification documents.³⁴ 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.³⁵

Notes to Section II—North Korean Refugees in China

¹James Burt, “Actions Speak Louder Than Words,” *Korea JoongAng Daily*, 6 February 17; John Hemmings and Talia Jessener, “Don’t Forget the Treatment of North Korean Defectors,” *The Diplomat*, 14 February 17; UN Committee against Torture, *Concluding Observations on the Fifth Periodic Report of China*, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 46. In November 2015, in its *Concluding Observations on the Fifth Periodic Report of China*, the UN Committee against Torture noted “over 100 testimonies received by United Nations sources . . . in which nationals of the Democratic People’s Republic of Korea indicate that persons forcibly repatriated to the Democratic People’s Republic of Korea have been systematically subjected to torture and ill-treatment.”

²Human Rights Watch, “China: Don’t Force 8 Refugees Back to North Korea,” 23 April 17; Jack Kim, “China Detains Two South Korean Pastors for Helping North Korea Defectors: Report,” *Reuters*, 15 March 17; Megan McQueen, “The Second Escape: Human Rights Violations Reach Beyond the North Korean Border,” *Politico*, 14 December 16.

³Democratic People’s Republic of Korea Ministry of State Security and 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 8 July 98, effective 28 August 98, 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 of “calamity or unavoidable factors.”

⁴Convention Relating to the Status of Refugees, 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(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*, last visited 10 July 17. China acceded to the Convention Relating to the Status of Refugees on September 24, 1982. Protocol Relating to the Status of Refugees (1967 Protocol), adopted by UN General Assembly resolution 2198 (XXI) of 16 December 66, entry into force 4 October 67; United Nations Treaty Collection, Chapter V, *Refugees and Stateless Persons, Protocol Relating to the Status of Refugees*, last visited 10 July 17. China acceded to the Protocol Relating to the Status of Refugees on September 24, 1982. See also Human Rights Watch, “China: Don’t Force 8 Refugees Back to North Korea,” 23 April 17; Greg Scarlatou, *Korean Economic Institute*, “The North Korean Human Rights Conundrum: Moving Forward,” 28 February 17.

⁵Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by UN General Assembly resolution 39/46 of 10 December 84, entry into force 26 June 87, 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*, last visited 10 July 17. 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 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 46. In November 2015, in its *Concluding Observations on the Fifth Periodic Report of China’s compliance with the Convention*, the UN Committee against Torture stated its concerns about China’s lack of “national asylum legislation and administrative procedures” for determining refugee status, as well as China’s “rigorous policy of forcibly repatriating all nationals of the [DPRK] on the ground that they have illegally crossed the border solely for economic reasons.” See also Human Rights Watch, “China: Don’t Force 8 Refugees Back to North Korea,” 23 April 17.

⁶“Number of N.K. Defectors Grows 11 Pct On-Year 2016: Data,” *Yonhap News Agency*, 3 January 17; “North Korean Defectors to South Up by 10.9% in 2016,” *Business Standard*, 3 January 17. The number of North Koreans who defected to South Korea in 2009 was 2,914.

⁷Kim Seong Hwan, “8 More N. Korean Escapees Arrested in China,” *Daily NK*, 6 December 16; Elizabeth Shim, “Report: Dozens of North Korean Defectors Arrested in China,” *United Press International*, 1 December 16.

⁸Kim Seong Hwan, “8 More N. Korean Escapees Arrested in China,” *Daily NK*, 6 December 16. See also Elizabeth Shim, “Report: Dozens of North Korean Defectors Arrested in China,” *United Press International*, 1 December 16.

⁹Kim Myong-song, “6 N. Korean Defectors Arrested in China,” *Chosun Ilbo*, 17 March 17.

¹⁰Elizabeth Shim, “China Arrests More Than a Dozen North Korea Defectors,” *United Press International*, 17 March 17.

¹¹Human Rights Watch, “China: Don’t Return 5 Refugees to North Korea,” 24 June 17. See also “Human Rights Group Urges China Not To Repatriate 5 N.K. Defectors,” *Yonhap News Agency*, 26 June 17.

¹²Kim Myong-song, “Fugitive N. Korean Family Kill Themselves in China,” *Chosun Ilbo*, 24 July 17.

¹³*Ibid.*

¹⁴Kim Ga Young, “China Repatriates 70 North Korean Defectors,” *Daily NK*, 2 August 17.

¹⁵Human Rights Watch, “China: Don’t Return 5 Refugees to North Korea,” 24 June 17; Human Rights Watch, “Letter From HRW to Chinese President Xi Jinping Re: North Korean

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Refugees,” 24 June 17; UN High Commissioner for Refugees, Refugee Protection and International Migration, 17 January 07, para. 20.

¹⁶UN Office of the High Commissioner for Human Rights, “End of Visit Press Statement by the Special Rapporteur on the Situation of Human Rights in the Democratic People’s Republic of Korea to the Republic of Korea,” 21 July 17; “U.N. Human Rights Envoy Welcomes S. Korea’s Push for Engagement With N. Korea,” Yonhap News Agency, 21 July 17.

¹⁷Ministry of Foreign Affairs, “Ministry of Foreign Affairs Spokesperson Lu Kang Holds Regular Press Briefing on July 24, 2017” [2017 nian 7 yue 24 ri wajiaobu fayanren lu kang zhuchi lixing jizhehui], 24 July 17.

¹⁸Elizabeth Shim, “China Deported 30 South Korean Nationals, Report Says,” United Press International, 25 January 17.

¹⁹Ibid.

²⁰Gu Li, “China Deported 32 South Korean Missionaries, Possible Retaliation Against THAAD” [Zhongguo zhu 32 ming hanguo chuanjiaoshi yi baofu sade], Radio France Internationale, 11 February 17; Jack Kim and Ju-min Park, “China Expels 32 South Korea Missionaries Amid Missile Defense Tension,” Reuters, 11 February 17.

²¹Gu Li, “China Deported 32 South Korean Missionaries, Possible Retaliation Against THAAD” [Zhongguo zhu 32 ming hanguo chuanjiaoshi yi baofu sade], Radio France Internationale, 11 February 17.

²²Ibid.; Jack Kim and Ju-min Park, “China Expels 32 South Korea Missionaries Amid Missile Defense Tension,” Reuters, 11 February 17.

²³Elizabeth Shim, “China Arrests Christian Missionaries for North Korea Activities,” United Press International, 15 March 17; Jack Kim, “China Detains Two South Korean Pastors for Helping North Korea Defectors: Report,” Reuters, 15 March 17.

²⁴Ibid.

²⁵See, e.g., Robbie Gramer et al., “With Human Trafficking Report, Tillerson Rebukes China on Human Rights,” Foreign Policy, 27 June 17; “North Korean Women Defectors Escape From Life of Deprivation Only To Be Forced Into Slavery, Says Activist,” Agence France-Presse, reprinted in Straits Times, 3 November 16.

²⁶Kim Myong-song, “Statistics Highlight Abuse of N. Korean Women in China,” Chosun Ilbo, 9 November 16; “Human Traffickers, Forcible Repatriation, Female North Korean Defectors Still Suffering in China” [Renkou fanzi, qiangzhi qianfan, tuobei nuxing zai hua reng shou jian’ao], Voice of America, 5 November 16; Christina Couch, “The Psychological Trauma of Defecting From North Korea,” PBS, NOVA Next, 16 February 17.

²⁷“Trafficked Into China With No Escape for 15 Years,” Unification Media Group, reprinted in Daily NK, 25 April 17; “Human Traffickers, Forcible Repatriation, Female North Korean Defectors Still Suffering in China” [Renkou fanzi, qiangzhi qianfan, tuobei nuxing zai hua reng shou jian’ao], Voice of America, 5 November 16; “My Mission: One Woman’s Calling To Help North Korean Women in China,” World Watch Monitor, reprinted in Sight, 24 January 17.

²⁸“Human Traffickers, Forcible Repatriation, Female North Korean Defectors Still Suffering in China” [Renkou fanzi, qiangzhi qianfan, tuobei nuxing zai hua reng shou jian’ao], Voice of America, 5 November 16; “North Korean Women Defectors Escape From Life of Deprivation Only To Be Forced Into Slavery, Says Activist,” Agence France-Presse, reprinted in Straits Times, 3 November 16; Hong Mei, “If Father Is Chinese, Defectors Face Difficulty in Obtaining South Korean Government Financial Assistance” [Ruo fuqin wei zhongguo ren tuobeizhe nan huo han zhengfu zizhu], Epoch Times, 10 November 16.

²⁹Convention on the Elimination of All Forms of Discrimination against Women, adopted by UN General Assembly resolution 34/180 of 18 December 79, entry into force 3 September 81, art. 6; United Nations Treaty Collection, Chapter IV, Human Rights, Convention on the Elimination of All Forms of Discrimination against Women, last visited 10 July 17. China signed the Convention on July 17, 1980, and ratified it on November 4, 1980. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, adopted by UN General Assembly resolution 55/25 of 15 November 00, entry into force 25 December 03, arts. 6–9; United Nations Treaty Collection, Chapter XVIII, Penal Matters, A Protocol To Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, last visited 10 July 17. China acceded to the Protocol on February 8, 2010.

³⁰Kim Myong-song, “Statistics Highlight Abuse of N. Korean Women in China,” Chosun Ilbo, 9 November 16; Hong Mei, “If Father Is Chinese, Defectors Face Difficulty in Obtaining South Korean Government Financial Assistance” [Ruo fuqin wei zhongguo ren tuobeizhe nan huo han zhengfu zizhu], Epoch Times, 10 November 16.

³¹PRC Nationality Law [Zhonghua renmin gongheguo guoji fa], passed, issued, and effective 10 September 80, art. 4. Article 4 of the PRC Nationality Law provides that, “Any person born in China whose parents are both Chinese nationals and one of whose parents is a Chinese national shall have Chinese nationality.”

³²Christine Chung, Committee for Human Rights in North Korea, “North Korean Mothers Fight To Be Reunited With Stateless Children Left Behind in China,” HRNK Insider (blog), 4 November 16; Janelle L. B. Macintosh et al., “Global Immunizations: Health Promotion and Disease Prevention Worldwide,” American Journal of Maternal/Child Nursing, Vol. 42, No. 3 (May/June 2017), 140; Hong Mei, “If Father Is Chinese, Defectors Face Difficulty in Obtaining South Korean Government Financial Assistance” [Ruo fuqin wei zhongguo ren tuobeizhe nan huo han zhengfu zizhu], Epoch Times, 10 November 16; Yang Tianheng, “Farmers Buy North Korean Defector Wives, Generating Misfortune” [Nongmin mairu tuobei xinniang shuchu le buxing], Oriental Daily, 19 November 16.

³³Ibid.

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³⁴ See, e.g., “Trafficked Into China With No Escape for 15 Years,” Daily NK, 25 April 17; Sylvia Kim and Yong Joon Park, European Alliance for Human Rights in North Korea, “Invisible Children: The Stateless Children of North Korean Refugees,” December 2015, 88.

³⁵ Convention on the Rights of the Child, adopted by UN General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, 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 provide all children with access to education without discrimination on the basis of nationality. See also Christine Chung, Committee for Human Rights in North Korea, “North Korean Mothers Fight To Be Reunited With Stateless Children Left Behind in China,” HRNK Insider (blog), 4 November 16.