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Unwelcome Migrants: The Plight of North Korean Refugees in China

By Dianna Bai

I. INTRODUCTION

In China's northeastern provinces, tens of thousands to as many as 300,000 North Korean refugees hide, waiting in the wings for an opportunity to traverse the road to freedom. Some escape from political persecution; others are in search of food and a more prosperous life. Condemned as traitors by their own country for the act of leaving and wholly unwelcomed by authorities of the country they risked their lives to enter, North Koreans fleeing to China find themselves in a precarious limbo, caught between two dangerous worlds while searching for a way to resettle in South Korea or the United States.

This paper examines the perilous journey of North Korean refugees in China. It explains their rightful status as refugees, subject to the protections guaranteed by international law, and shines light on China's continued inattention to international conventions in favor of domestic and regional political considerations. As a result, North Korean refugees hide from Chinese authorities, fearful of forcible repatriation to North Korea where they would be persecuted for defecting. This paper also considers the options the international community could take to help North Korean refugees in China, whether through public pressure or aid to civil society groups.

II. THE PLIGHT OF NORTH KOREAN REFUGEES IN CHINA

Since it is virtually impossible for the ordinary North Korean citizen to defect to South Korea by traveling through the heavily guarded Demilitarized Zone between the North and South, the majority of North Korean refugees escape the country through the Chinese border. Two rivers separate China and North Korea, the Yalu and the Tumen, with the slower and narrower Tumen generally serving as the natural boundary of choice for North Korean refugees to cross. With North Korean guards patrolling the border every few hundred miles, escapees must embark on a long and circuitous hike through the mountains to the Tumen River. Crossing the river is only the beginning of a harrowing journey for the refugees. Once in China, they face a host of problems that keep many confined to a difficult life with little hope of making it to freedom. A 2007 Congressional Research Service (CRS) report numbers North Korean refugees in China anywhere from 30,000 to 300,000 persons.

The dilemma of North Korean refugees in China stems from the Chinese government's refusal to recognize them as refugees or even as potential refugees. The main body of international laws protecting refugees is given in the 1951 Convention on the Status of Refugees, which recognizes a person as a refugee if he or she

owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside of the country of his/her nationality and is unable to or, owing to such fear, is unwilling to avail him/herself of the protection of that country; or who, not having a nationality and being outside the country of his last habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

The Convention defines the obligations of party countries towards refugees and especially emphasizes the *non-refoulement* stipulation, which states, "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."

Despite being a signatory, China argues that North Koreans who escape across the border to China are "economic migrants" rather than refugees, temporarily residing in China to seek out food and money. China has not enacted concrete legislation to incorporate the dictates of the 1951 Convention for refugees more generally, but it does allow defectors of non-North Korean nationality to seek asylum with the United Nations High Commissioner for Refugees (UNHCR) office in Beijing. The Chinese government has expressly forbidden the UNHCR to operate in China's northeastern provinces, preventing them from working with North Koreans there. Chinese authorities summarily arrest North Koreans they find and repatriate them to North Korea, at the same time imposing fines of up to \$3,500 on those Chinese who aid them. Chinese patrols periodically search house by house in the northeastern provinces to seek out North Koreans hiding in Chinese households. Those refugees rounded up by Chinese patrols are held in detention centers near the Chinese border and then sent back to North Korea. A 2006 *Washington Post* article reported that Beijing began construction of barbed wire fences along the Tumen River border in 2003 and started erecting a barbed wire fence along the Yalu River in 2006.

Repatriation

China repatriates North Koreans for a variety of social, economic, and political reasons. Mikyoung Kim writes in 2010 that China is concerned about the social burden that a massive number of North Korean refugees would place on an already fragile system. Already aggravated by economic problems of unemployment, inflation, increasing inequality, and environmental degradation, among others, China fears that a more welcoming stance toward North Koreans will encourage an even bigger influx. Besides this, preoccupied with social harmony and stability, China is apprehensive about foreign influences that may increase the autonomy of ethnic Koreans in northeastern China.

The desire to maintain strong and stable relations with North Korea also has a bearing on China's repatriation policy. China and North Korea's alliance was forged in history and ideology. Ever since China defended North Korea in the Korean War, the two countries have enjoyed a "blood relationship" according to Liu Ming in 2003. Jayshree Bayoria in 2010 argues that China still views North Korea as a buffer zone for foreign aggression as it did during Japanese colonialism and the Korean War, especially as a barrier between South Korea and the 29,000 American military troops stationed there.

Certainly, North Korea is at the least a long-standing ally with ideological affinity to China in a region of unfriendly neighbors. Timothy Savage notes in 2003 the impact of China's neighbors on China's relations with North Korea. To the north lies Russia, a Chinese rival since the Sino-Soviet split and the subject of several border disputes. To the east lies Japan, a Chinese competitor for regional hegemony and a country with which it has a bloody and hostile history. Southeast Asia views China with increasing suspicion because of several territorial disputes in the South China Sea. A nuclear India to the south rivals China in population and fought a bitter border skirmish with China in 1962. In the far west, the Islamic militancy in the Central Asian Republics could provoke more aggressive Muslim separatism in China's northwest province, Xinjiang.

Finally, as two of the few remaining Communist strongholds in the world after the fall of the Soviet Union and the collapse of Communism in Eastern Europe, China and North Korea also reinforce each other's political legitimacy according to Andrew Scobell in 2002. For China, turning from North Korea means turning from its Communist brother in arms. As analyst Bates Gill explains in 2011, past history and ever-present commonalities have perpetuated a narrative of "morbid reminiscence" between China and North Korea that continues to influence China's North Korea policy.

Complicating the issue of refugee status in particular, North Korea's Ministry of State Security and China's Ministry of Public Security also signed a 1986 "Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order and the Border Areas" treaty, in which China agreed to repatriate all North Koreans who flee across the Chinese border. The agreement states,

- 1) Both sides shall mutually cooperate on the work of preventing the illegal border crossing of residents. In the case of crossing the border without possession of a legal certificate or without passing through screening agencies or the passage places stated on the possessed certificate, [the individual] shall be treated as an illegal border crosser [...]
- 2) Regarding individuals who illegally cross the border, depending on the situation, a name-list or relevant materials should be turned over to the other side [...]

Not upholding the procedure laid out in the 1986 agreement would be a unilateral deviation from the treaty for China.

North Korea views the outflow of refugees as a fundamental threat to its legitimacy because its national ideology builds on the belief that North Korea is the most desirable place on Earth. According to NGO leader Sokeel Park in 2012, refugees who escape to South Korea also serve as information sources about the outside world to their relatives in the North, eroding the government's control. Thus, the refugee outflow to China is an extremely important issue to the North Korean government and one that the Chinese government will not dishonor, given the importance it places on the relationship with North Korea.

Even more crucial than maintaining good relations with North Korea, Dick Nanto and Mark Manyan in 2010 contend that China's priority remains preserving the status quo on the Korean Peninsula and in the region. China increasingly views South Korea as a friend and important trading partner. The buffer zone argument is quickly becoming obsolete given the global nature of modern warfare. Moreover, China's relationship with North Korea could be more of a burden to China than an asset. China provides North Korea with aid and political backing while North Korea's provocations in the nuclear realm have drawn fury from the international community. Additionally, North Korea is slow to implement China's recommended economic reforms. However, China does not want to see political destabilization in Pyongyang—whether by economic collapse or political upheaval—as it would cause even more refugees to flood across the Chinese border and result in a greater economic and social burden

for China. The situation is like a pebble starting an avalanche. China cannot recognize North Koreans who cross the border as refugees because it would encourage a bigger exodus of refugees that might destabilize the regime and result in even more refugees.

Are North Koreans in China Refugees?

In March 2004, China's Foreign Minister Li Zhaoxing reportedly said in a press conference at the National People's Congress, referring to North Korean who cross the Chinese border, "These refugees that you talk about do not exist ... [They] are not refugees, but they are illegal immigrants." China often compares North Koreans who flee to the PRC to illegal immigrants from Mexico who cross the border into the United States in search of jobs and better opportunities.

At first glance, China's labeling North Koreans as "economic migrants" has merit. Data collected in a 2005 survey conducted by Stephen Haggard and Marcus Noland of North Korean refugees in China suggests the overwhelming reason why North Koreans respondents left their country was economic. Ninety-five percent of respondents stated economic factors as the primary reason for leaving, completely overshadowing political reasons (two percent) and religious reasons (0.2 percent). However, this comparison does not hold for two reasons: (1) the political situation North Koreans face at home prior to leaving and (2) the punishment they risk if repatriated to North Korea.

Push and Pull Factors

The first reason China should accept these runaways as refugees is the harsh political situation they face at home. In recent years, a myriad of push and pull factors have emerged to compel North Koreans to flee to China in larger and larger numbers. According to a 2002 Human Rights Watch report, push factors include the "loss of status, frustration over lack of opportunities, political persecution due to family history, and the wish to live in similar conditions as North Koreans living outside of North Korea." Pull factors stem from the erosion of the North Korean state's total control of information by word of mouth, new information technologies, and the circumvention of the state's information monopoly.

Melanie Kirkpatrick's *Escape from North Korea: The Untold Story of Asia's Underground Railroad* chronicles the ways North Koreans are learning about the outside world. First, North Korean exiles provide their family members and friends still in North Korea information about the wider world through illegal Chinese cell phones, remittances, and other interactions. Second, although only state approved broadcasts are allowed to air in North Korea, some North Koreans

turn to the black market for retrofitted devices or cheap Chinese radios that can pick up foreign stations such as Radio Free Asia or Free North Korea Radio, a refugee-run channel based in South Korea. Third, as information technologies proliferate, entrepreneurs are smuggling more South Korean DVDs, CDs, and videos into North Korea. The more North Koreans learn about the world outside their borders, the more enticed they are by the opportunities that it may hold for them.

The Allocation of Food and the Political System

However, despite all the attractive “pull” factors, the primary condition that induces North Koreans to flee across the border is still extreme poverty and, ever since the devastating famine of the 1990s, the shortage of food in North Korea. The plight of North Korean refugees who cross the Chinese border in search of food reflects not only the economic situation in North Korea but also the political situation. North Koreans live under a caste system where citizens are divided into “loyal,” “wavering,” or “hostile” classes based on family pedigree. A 2012 report published by the Committee for Human Rights in North Korea aggregates the evidence that such a system, referred to as *songbun*, commenced during Kim Il-sung era and continues to exist today. Descendants of those who fought Japanese colonial rule, those who fought in the Korean War, and peasants and laborers belong to the loyal class. Families of artisans, small shopkeepers, traders, and intellectuals educated under Japanese rule comprise the wavering class, while the hostile class includes relatives of those who collaborated with the Japanese or opposed Kim Il-sung, as well as families of businessmen, religious leaders, landlords, and those who fled the country. The distribution of food through the Public Distribution System (including international food aid) as well as housing, employment, and healthcare favors the loyal class and discriminates against the hostile and wavering classes. For example, those belonging to lower *songbun* classes have no chance of education beyond secondary school and therefore no possibility of advancement to more influential positions, relegating them to poor food security, housing, and medical care for the rest of their lives. Thus it comes as no surprise that the vast majority of North Korean refugees hail from the two unprivileged classes, according to a 2005 survey conducted by Yoonuk Chang. North Koreans who flee to China are most often escaping an inherently unjust political caste system.

Refugees Sur Place

The second reason China should recognize North Korean refugees is because of the punishment they face if they return to North Korea. According to the

UNHCR, a person can become a refugee even if he or she was not persecuted before leaving but would be after going back. Article 92(b) of Chapter 2 of the UNHCR Handbook states,

The requirement that a person must be outside his country to be a refugee does not mean that he must necessarily have left that country illegally, or even that he must have left it on account of well-founded fear. He may have decided to ask for recognition of his refugee status after having already been abroad for some time. A person who was not a refugee when he left his country, but who becomes a refugee at a later date, is called a refugee *sur place*.

North Korean law considers defecting to another country an act of treason, punishable by death. International law guarantees the right of people to leave their own country, but North Korean Criminal Code Articles 117 and 47 stipulate that all North Korean defectors have committed a crime regardless of reason. In 2012, Roberta Cohen at the Brookings Institution described the treatment North Korean refugees face after repatriation: the North Korean state security forces hold all North Koreans who are repatriated from China in detention centers near the border, where they are questioned about their reasons for leaving the country and who they have been in contact while within China. Those defectors with political reasons for leaving or who have been in contact with Christian missionaries and South Korean NGOs are often sent to North Korea's infamous gulags, where they are subject to beatings, torture, starvation, and other cruel and inhumane treatment. The lightest sentence—for those who left North Korea for economic reasons—is at least three to six months in a labor training camp, where beatings and malnourishment also occur. Female North Koreans who are pregnant by Chinese men are often forced to have an abortion or to see their infant killed upon birth.

North Korean Refugee Vulnerability in China

Despite the desperate circumstances that North Koreans who cross the Chinese border face both before and after leaving their home country, China refuses to recognize them as refugees for the variety of reasons discussed earlier. Although China has tacitly allowed thousands of North Koreans to reside within China, those refugees have no rights due to China's official policy. As a result, they live in constant fear and anxiety and become prime targets for exploitation by employers and sex traffickers.

Haggard and Noland's 2005 study illustrates the dire employment conditions for North Koreans in China. Only 22 percent of the respondents reported holding a

job, while 78 percent of those respondents said they received meager rather than fair wages and a full 9 percent received none. Indeed, when North Koreans find their employers unwilling to pay, they have no way to redress these grievances. With no *hukou* (residence permit) or *shenfenzheng* (ID card), North Koreans are left at the mercy of their employers.

Sex Trafficking

Women and girls make up approximately 80 percent of North Koreans refugees who flee to China, according to Melanie Kirkpatrick in 2012. They are also the most vulnerable group, often becoming “commodities for purchase” for human traffickers. China’s One Child Policy, enacted in 1979, has skewed the male-to-female birth ratio and created a thriving market for North Korean brides in China. Aiming to control overpopulation, China has only allowed one child per couple for over three decades. However, in rural Chinese society, boys are valued more than girls. They can help as laborers on the farm, provide for their parents as they age, and carry on the family name. Therefore, many Chinese families choose to abort babies they know will be girls before they come to term or kill female infants shortly after birth. As a result, China’s current birth ratio is 118 males to 100 females, as reported by *The Guardian* in 2011, leaving millions of males with no chance of finding Chinese wives.

Spotting a lucrative business opportunity, a plethora of human traffickers has made their living finding North Korean brides for single Chinese men. Though traffickers mostly operate in the northeastern provinces of Jilin, Liaoning, and Heilongjiang where the ratio of young men to young women is an incredible 14 to 1, North Korean brides are sold all over the country, according to Kirkpatrick’s account. “Suppliers” travel to North Korea to seek out attractive young women in public areas, even following some women home to approach them about false employment opportunities in China. Once they lure the North Korean women into going to China, suppliers then sell them to “wholesalers,” who in turn sell the women to “retailers.” Brokers also entrap young North Korean women who independently cross the border, abducting them or again luring them in with false promises of jobs in factories. In some cases, Chinese border guards or police will pretend to arrest North Korean women for illegally crossing the border but then sell them to human traffickers or directly to Chinese men looking for brides. Once in the grasp of human traffickers, North Korean women suffer both physical and psychological abuse. Kathleen Davis’ 2006 article “Brides, Bruises and the Border” chronicles the dilemma of North Korean brides. The women are often beaten, locked up, and repeatedly raped as their captors attempt to break their spirit and turn them into complacent sex servants. Some are then forced to work in the sex industry as karaoke bar hostesses or prostitutes in brothels. The majority are sold as wives to Chinese men for anywhere from \$500 to \$1,000

depending on their age and appearance, after which they often continue to face physical and psychological abuse from their new husbands. Many women, however, agree to marry a Chinese man, the only available option they see for themselves aside from repatriation and starvation. Some of the men who buy North Korean brides are physically disabled or extremely poor and barely able to provide for the women. Even after marriage, North Korean women still have no proper documentation and continue to live in fear of being found by the Chinese authorities.

Possibilities and Impossibilities for China

One way for the Chinese government to assist North Korean refugees is to grant them temporary work visas or marriage licenses if they marry Chinese natives, providing a legal status that would protect them from exploitation and human trafficking. The Chinese government could potentially allow the United Nations to distribute economic aid to the refugees or set up refugee camps in the three northeastern provinces closest to North Korea. However, these possibilities are highly unlikely due to the fact that taking any such measures would require China to recognize North Korean escapees as refugees, break the 1986 treaty with North Korea, and potentially destabilize North Korea. It is not in China's best interest to encourage a larger influx of refugees by changing any official policy.

III. OPTIONS FOR THE INTERNATIONAL COMMUNITY

Because of the strong diplomatic relationship that continues to exist between China and North Korea and North Korea's insistence on the repatriation of refugees, the options for the international community are relatively limited. International NGOs must continue to operate in China to locate and guide refugees out of the country while exercising extreme caution in terms of their relationship with the Chinese government. Although official diplomatic actions are limited due to China increasing international importance in economic, political, and military affairs, the international community must continue to create humanitarian norms that can potentially influence China's unofficial policy.

Strengthening the Underground Railroad

Encouraging China to pursue a benign neglect policy—meaning China would quietly ignore North Korea refugees' presence—may be the best option. The 2002 asylum crisis in China serves as a cautionary tale for NGOs trying to bring too much inflammatory public attention to the refugee situation. Ming Liu writes in 2003 that from 1999 to 2001, China became more tolerant of North Korean refugees, gradually reducing the number of refugees forcibly repatriated to

North Korea and quietly allowing South Korean human rights and missionary groups to feed and shelter the refugees in the northeastern provinces. However, in 2002, emboldened NGOs helped dozens of North Korean refugees travel to Beijing to occupy the Spanish, American, and South Korean embassies. Chinese police reportedly violated diplomatic immunity by entering the compounds to remove the North Koreans. The situation devolved into a diplomatic row between China and South Korea and Japan. NGO leaders capitalized on this opportunity to publicize the refugees' plight, which ultimately altered the tacit compromise between NGOs serving North Korean refugees and the Chinese government. Subsequently, the Chinese government ordered a crackdown on North Korean refugees, conducting a massive search for refugees in Beijing and China's three northeastern provinces, immediately repatriating all the defectors they found. Furthermore, the Chinese government issued a warning to all foreign organizations to stop sheltering and aiding North Korean refugees and to abide by all Chinese laws and regulations. China went on to arrest and deport a number of NGO leaders involved in smuggling North Koreans into South Korea.

An important lesson that one can glean from the 2002 asylum crisis is that China tolerates the services of foreign NGOs who aid North Koreans so long as this does not become a political issue, especially one that humiliates the Chinese government on the international stage. In fact, this dynamic mirrors the attitude China holds toward its own domestic NGOs as well; the Chinese government can tolerate NGOs that provide valuable services that help keep China's "harmonious" society stable and that do not become political. Foreign civil society groups feeding and sheltering North Korean refugees lessen the burden placed on Chinese society by aiding these displaced persons, but when they stage a very public intervention such as occupying a foreign mission, they draw news headlines and cause embarrassment for the Chinese government, forcing a response.

As such, foreign NGOs should not be so eager to draw attention to the refugee crisis even though they serve as advocacy groups. Instead, they should shift away from public displays seeking asylum and concentrate on quieter but just as effective avenues of sneaking North Korean refugees out of China. The "underground railroad" through which foreign humanitarian NGO workers and missionaries guide North Korean refugees into Southeast Asia may be the most effective way of moving refugees to South Korea. Countries like Thailand, while also not recognizing fled North Koreans as refugees, will not repatriate them to North Korea but instead deport them to South Korea. Once the North Korean refugees arrive in a country like Thailand, they can seek asylum at the South Korean embassy, be deported to South Korea, or obtain a fake passport and fly directly into Seoul.

Due to a lack of sufficient resources at NGOs, only a handful of refugees each year travel on the underground railroad to Southeast Asia. Planning the journey requires time and extraordinary effort, as the railroad guides must discover and test out routes themselves before they can lead refugees on them. Mike Kim observes in *Escaping North Korea* that NGOs find themselves unable to help every North Korean who wishes to escape, instead having to choose to only help the most vulnerable refugees or those with the most valuable information. To help North Korean refugees who want to resettle in South Korea, the international human rights community should direct more resources to humanitarian NGOs and missionary groups helping North Koreans escape China quietly rather than supporting publicity stunts. By sparing China international criticism, this creates a space for China to tolerate the presence of North Korean refugees, especially if they are being channeled out of China and into South Korea quickly and quietly.

The Humanitarian High Ground: Pressure from the International Community and the UN

Although China is unlikely to grant North Korean border crossers official refugee status given its political consideration for North Korea, the international community and the UN may be able to encourage a benign neglect policy by raising the issue's profile in diplomatic and multilateral forums. As China becomes increasingly prominent on the international stage, it wishes to appear responsible and benevolent. As China analyst Wu Chengqiu in 2003 explains,

[As] a result of its domestic socio-economic development and its interactions with other countries, China underwent an identity change from a defensive power of bitterness and insecurity to a confident ascending power aspiring to take more responsibility, which inevitably redefined China's interest and made the country more receptive to international pressure and more willing to behave in accordance with international norms.

The United States, for instance, could raise the topic at the annual Strategic and Economic Dialogues held between China and the U.S. to indicate to China the issue's importance as a humanitarian matter. Doing so could induce China to take a more lenient position on repatriating North Korean refugees even if it does not elicit an official policy change vis-a-vis North Korea.

The United Nations High Commissioner for Refugees could also play an important role in setting international norms by choosing to exit China in protest of China's repatriation policy. Denied access to the border by Chinese authorities, the UNHCR has its hands tied on the North Korean refugee issue

despite China's signed agreement with the UN in 1995 stating "UNHCR personnel may at all times have unimpeded access to refugees and to the sites of UNHCR projects in order to monitor all phases of their implementation." China has turned down offers of assistance from the UNHCR multiple times, disagreeing with the agency on whether these displaced persons should be considered "persons of concern" and subject to humanitarian assistance. When the South Korean government, along with foreign NGOs, proposed the idea of refugee camps, a Chinese Foreign Ministry spokesman rejected the notion. As one of the few human rights agencies allowed in China, the UNHCR states that it aids North Korean refugees behind the scenes. However, the UNHCR could potentially leave this role to private NGOs and instead make a statement to China by closing its offices in Beijing and exiting the country. Since the UNHCR is an intergovernmental organization, such a move would send a strong message to China about international norms in this arena.

IV. CONCLUSION

Thousands of North Koreans are trapped in a quagmire in China as a result of China's policy of repatriating border crossers from North Korea, despite ample evidence that these displaced persons are indeed refugees. Under no legal protection, these refugees are extremely vulnerable to exploitation and human trafficking in China. Although it is unlikely for China to break its 1985 Agreement with North Korea to repatriate border crossers given their relationship and China's desire to maintain the status quo on the Korean Peninsula, there are measures the international community could take to help the refugees and appeal to China's aspirations for international respect. The international community needs to continue directing financial resources to foreign NGOs helping North Korean refugees in China travel the "underground railroad" through Southeast Asia to South Korea. The international community must also step up its application of international pressure through diplomatic and multilateral forums to induce China to carry out a *de facto* policy of benign neglect.



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