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Joint submission by

FIDH - International Federation for Human Rights

Database Center for North Korean Human Rights (NKDB)

The Database Center for North Korean Human Rights (NKDB) is a non-governmental human rights organization that was established to document human rights violations perpetrated against North Koreans and provide direct redress to victims. As of March 2023, NKDB recorded over 139,982 entries in its database.

The International Federation for Human Rights (FIDH) is an international human rights NGO that unites 188 member organizations from 116 countries. Since its foundation in 1922, FIDH has been defending all civil, political, economic, social, and cultural rights set out in the Universal Declaration of Human Rights (UDHR).

Introduction

1. The Database Center for North Korean Human Rights (NKDB) estimates there to be more than 10,000 people currently residing in China clandestinely and without legal status or protection after fleeing from the Democratic People's Republic of Korea (DPRK). This submission first addresses the detention of North Korean refugees in China who are forcibly returned to the DPRK. The Chinese authorities continue to facilitate these refoulements despite the risk of torture, arbitrary imprisonment, summary executions, and other serious human rights violations that the forcibly deported North Koreans face in the DPRK upon their return. Next, the submission outlines the treatment of the undocumented North Korean women living in China who are a vulnerable group that is particularly susceptible to human rights abuses in the form of trafficking and forced marriages.
2. The concerns noted herein are based on numerous interviews conducted by NKDB with North Koreans who fled to China. In making this submission, NKDB and FIDH urge the Chinese government to take action to implement relevant recommendations from the three previous Universal Periodic Review (UPR) cycles.
3. In the first UPR of China in 2009, Canada recommended China take immediate measures to implement the recommendations of the United Nations (UN) Committee against Torture on the non-refoulement of refugees from the DPRK.
4. In the second UPR in 2013, the Czech Republic similarly recommended China to protect North Korean refugees in accordance with international law and honor the principle of non-refoulement. The Republic of Korea (South Korea) further recommended China accept the recommendations of the UN High Commissioner for Refugees (UNHCR) on refugee issues, including the adoption of national asylum legislation and the provision of adequate protection to asylum seekers and cross-border refugees including those from neighboring countries, in accordance with humanitarian considerations and relevant international norms including non-refoulement.
5. Despite these continued recommendations throughout the past three UPR cycles, China has not implemented any of them.

China's policy towards North Korean refugees

6. China is subject to international human rights obligations under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, to both of which it is a party. Notably, the 1951 Refugee Convention provides that contracting states are prohibited to expel or return refugees against their will, in any manner whatsoever, to a territory where they fear threats to life or freedom. China is also a state party to the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which similarly prohibits the expulsion, return, or extradition of persons when there are substantial grounds for believing that they would be in danger of being subjected to torture. The Universal Declaration of Human Rights further enshrines the right of every person to seek and enjoy asylum from persecution in other countries.

7. However, China's government does not recognize North Koreans fleeing to China as refugees and continues to label them as "illegal economic migrants" and forcibly repatriates them under a bilateral border protocol signed with the DPRK in 1986 in violation of its multilayered obligations under international law. Since 2003, NKDB has recorded 8,125 cases of forced repatriation of North Koreans in its database, of which 74% (6,036 cases) were women. NKDB documented 32,198 cases of human rights violations that were subsequently inflicted on those who had been repatriated.

The impact of COVID-19 on China's policies and practices along its border with the DPRK

Decline in numbers of refugees

8. The annual number of North Korean refugees arriving in South Korea before the COVID-19 pandemic used to reach around 1,000 individuals. However, the combination of the Chinese government's use of surveillance technology and the further tightening of the DPRK government's border measures, including shoot-on-sight orders and the expansion of fences, led to a dramatic decrease in defections. In 2022, a record low number of North Koreans were able to cross the border into China.¹ The decline in defections does not stem from a diminished desire among North Koreans to flee an oppressive environment. Rather, it reflects the mounting difficulties imposed by the Chinese government's pervasive surveillance measures. This situation has enabled China's government to achieve its objective of effectively curtailing successful crossings by North Korean refugees into China. The Chinese government's increasing use of technology has been used as a tool of repression that has affected North Korean refugees. Many North Koreans spoke about how the advanced surveillance capabilities, such as facial recognition and biometric systems, are used to monitor and track their movements in China.
9. The extensive use of video cameras and facial recognition software has been instrumental in suppressing the numbers of North Koreans fleeing the DPRK, as it makes it incredibly challenging to enter China undetected. Testimonies indicate that the cost of brokers to have assistance and guidance to cross from the DPRK into China has surged from 20 million won (about US\$15,000) per person prior to COVID-19 to 50 million won (about US\$38,000) per person as of early 2023. Over the past three years, broker fees have more than doubled, reaching two and a half times their previous amount. It can be inferred that the risks associated with defection from the DPRK have increased due to the heightened blockade of the DPRK-China border and the intensified security measures to prevent defections. Consequently, there is a scarcity of brokers, as fewer individuals are willing to undertake the associated risks. There have been instances in which brokers have rejected offers of 100 million won (about US\$75,000) per person due to concerns about security.
10. Furthermore, brokers face significant obstacles in supporting defections from the DPRK, as China has embraced electronic payment systems linked to identification, making it difficult to utilize cash as a means of covert transactions. The proliferation

¹ Washington Post, *North Koreans struggle to escape, thanks to covid and Kim*, 13 January 2023; <https://www.washingtonpost.com/world/2023/01/13/covid-border-closures-north-korea-refugees/>

of facial recognition technology in China has further compounded the challenges, as it significantly augments surveillance efforts and restricts the movements of North Koreans.

11. As COVID-19 restrictions started to ease, there have been notable instances of North Koreans in China endeavoring to defect to South Korea. Tragically, these attempts have resulted in a surge of arrests in China. NKDB has witnessed an increasing number of North Korean refugees residing in South Korea, who have come forward to share distressing accounts of their family members being apprehended and detained in China while attempting to flee again. The Chinese police, who refrained from actively arresting these individuals due to the challenges associated with repatriation as a result of the closed DPRK border during the pandemic, have now intensified their efforts to forcibly repatriate them to the DPRK amid signs that the borders will be re-opened.

Detention of North Koreans awaiting repatriation

12. The COVID-19 pandemic, and the resulting closure of the China-DPRK border led to a sharp increase in the number of North Korean refugees who were continuously detained as they waited to be repatriated back to the DPRK. In the event of an opening of the border and the resumption of forced repatriation, these North Korean refugees face harsh human rights violations upon their return to the DPRK. The estimated figures, ranging from 600 to 2,000,² suggest that the detention centers in China, especially those situated near the borders, are operating at full capacity.
13. Once North Koreans are arrested in China and interrogated by officers of China's public security bureaus under the Ministry of Public Security, they are sent to be detained and repatriated through the Public Security Border Defense Corps (PSBDC) in the areas near the China-DPRK border. NKDB, through field investigations as well as interviews with former detainees and former Chinese officials, have been able to confirm the location of six major Public Security Border Defense Corps (PSBDC) detention facilities that are located in the border regions with the DPRK.
14. Without access to first-hand accounts from detainees or insider sources, it becomes challenging to ascertain the complete scope of the circumstances in which North Korean refugees are being held in these facilities. To gain insights into the situation, NKDB has closely monitored the six established repatriation routes for any notable changes, particularly during the COVID-19 pandemic.
15. Information provided to NKDB reveals significant developments at the Public Security Border Defense Corps (PSBDC) facility in Helong, known for its involvement in repatriating North Korean refugees to Musan in the DPRK's North Hamgyong Province. Satellite imagery has revealed the construction of new fencing and additional facilities surrounding a watchtower overlooking the border.³ Furthermore,

² Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Tomás Ojea Quintana, March 2022; UN Doc. A/HRC/49/74; Report of the Special Rapporteur on the Situation of human rights in the Democratic People's Republic of Korea, October 2022; UN Doc. A/77/522.

³ NK News, *China expanding prisons where North Korean escapees are held: Investigation*, 13 June 2023; <https://www.nknews.org/pro/china-expanding-prisons-where-north-korean-escapees-are-held-investigation/>

in the summer of 2021, new buildings were erected within the premises of the detention centers, as well as the renovation of the existing main building.

16. However, the current lack of direct access hampers NKDB's ability to fully comprehend the conditions within these facilities. This knowledge gap is deeply troubling, as it can lead to impunity, an increase in human rights violations, and a lack of accountability. The absence of external scrutiny allows for violations to occur without consequence, perpetuating a climate of unchecked mistreatment and further eroding the rights and dignity of individuals. The lack of transparency and accountability fosters an environment where abuses can thrive, undermining the principles of justice and human rights.

Human rights abuses faced by North Korean refugees upon repatriation

17. Reports from survivors detail harrowing experiences of torture, including beatings, electric shocks, and sexual violence perpetrated by DPRK security forces upon being deported back from China. These acts are aimed at instilling fear and further subjugating the repatriated individuals, forcing them into compliance with the oppressive government's demands.
18. In addition to physical torture, repatriated individuals are often subjected to forced labor, being forced to work in grueling conditions.
19. Concerns persist regarding the fate of North Koreans who are currently detained in China along the border with the DPRK, anxiously awaiting repatriation. These individuals, who have risked their lives to flee oppression in the DPRK, find themselves in a precarious situation, as they are at real and constant risk of being forcibly returned to the DPRK, where they face severe punishment and persecution.

Human rights violations against North Korean women in China

20. The majority of the more than 10,000 North Koreans nationals who reside clandestinely and without legal status or protection in China are women. China, despite having ratified the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), has not adopted policies and legislation that ensures the protection of vulnerable North Korean women in China.

Trafficking and forced marriage

21. The lack of legal status in China for North Korean women who fled from the DPRK makes them particularly vulnerable to human trafficking and forced marriage. Without documentation, they are not only susceptible to human rights violations, but they also cannot report such violations or seek protection from authorities because of the risk of being sent back to the DPRK.
22. The majority of the North Korean women in China live in the country's northeast, close to the border with the DPRK. In the three predominantly rural provinces of China's Northeast, China's one-child policy contributed to an imbalanced gender ratio, with more men than women. This has led to a disproportionate number of Chinese men in these areas having poor prospects of finding women to marry. Due to this region's proximity to the border with the DPRK and the vulnerability of North Korean women in China, a trafficking network has grown where Chinese men who are willing to pay intermediaries a fee are provided North Korean women to marry. North Korean women in China - and particularly those in the country's Northeast - are therefore at a heightened risk of being victims of forced marriages.
23. North Korean women in China are unable to acquire Chinese citizenship even if they marry Chinese men, as these marriages are common-law relationships that are not recognized under Chinese law. This lack of security means that North Korean women face a constant risk of deportation to the DPRK and the separation from their husbands and children in China. The separation of North Korean women from their families in China leads to additional human rights abuses, such as violations of the right to family life, the right to privacy, and the right to non-discrimination, and to negative psychological impacts on children, such as separation anxiety and inter-generational trauma.

Recommendations to the government of China:

- Refrain from forcibly repatriating North Korean refugees to the DPRK and instead grant them refugee status and access to asylum procedures in line with the principle of non-refoulement.
- Allow a safe pathway for North Korean refugees to resettle to a third country by adopting a victim-centric and human rights-based approach to trafficking in persons, including providing victims with the right to stay in the country and access to legal protection and basic services.
- Grant the International Committee of the Red Cross access to the detention facilities where North Korean refugees are held and cooperate with the United Nations High Commissioner for Refugees (UNCHR) to allow it to exercise its mandate and ensure the safety and well-being of detained North Korean refugees.
- Recognize the legality of marriages between North Korean women and Chinese men to ensure that North Korean women can acquire Chinese citizenship and access legal protections.
- Enact all the necessary measures to prevent the trafficking of North Korean women in China and provide support and holistic care to victims and survivors of sexual exploitation and trafficking.