



English

**UN UPR CHINA
45TH SESSION**
(JULY 2023)

FORCED REPATRIATION OF MOTHERS FROM NORTH KOREA

**THE IMPACT ON CHINESE CITIZENS:
HUSBANDS AND CHILDREN IN CRISIS**

BY RFNK & PSCORE



**RIGHTS FOR
FEMALE
NK DEFECTORS**



PSCORE



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ABOUT THE ORGANIZATION

RIGHTS FOR FEMALE NORTH KOREAN DEFECTORS

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RFNK is an organization committed to addressing the profound human rights issues emanating from the forced separation of North Korean mothers from their children during defection processes from North Korea and China. As a non-profit civil society organization, we were founded in 2015, registered with the Ministry of Unification of the Republic of Korea in 2016, and have conducted 11 reports, studies, and projects on North Korean human rights from 2018 to 2023.

Our motto "The Separated Mothers : I Want to Hold My Children" underscores the profound anguish of North Korean mothers who have been forcibly separated from their children. It has served as the title for our human rights projects over the last six years and encapsulates the heart-wrenching reality of the mothers we represent.

The head of our organization, who submits this report, is herself a direct victim of the very circumstances we seek to highlight. She has dedicated a decade of her life to human rights activism, spurred by her personal experience of being forcibly separated from her child due to the misguided interventions by her Chinese family for 14 years.

Her child, born in China but conceived in North Korea, was registered as an adopted child in her Chinese husband's family register out of fear of forced repatriation. This decision, driven by her precarious status as an unregistered person, ultimately led to her losing custody of her child. Despite arriving in South Korea in 2009, her attempts to reunite with her child have been thwarted by her uncooperative Chinese family who have manipulated her circumstances, denying her access to her child for 14 years.

The tragic story at the core of this report shines a spotlight on the Chinese government's forced repatriation policy. This document is therefore more than a human rights report – it is an urgent call to action from those who have lived through the reality of these policies. The importance of the issues presented in the following pages cannot be overstated. The authenticity and urgency brought to these issues by the lived experiences of our organization's leader imbues this report with a significance and gravitas that demand immediate attention.

PEOPLE FOR A SUCCESSFUL COREAN REUNIFICATION

Homepage: <https://pscore.org> | Email: pscore@pscore.org

PSCORE is a non-profit NGO focusing on North Korean human rights. Its goal is to empower North Korean defectors and to prepare for the reunification of the Korean peninsula by conducting local and worldwide projects, since its foundation in 2006. Through international advocacy to the UN, awareness-raising campaigns, and education programs for escapees, PSCORE aims at promoting the human rights of the North Koreans, whether they are in North Korea, in China, or in South Korea. It is also the only South Korean organization advocating for North Korean human rights which has been granted the UN Economic and Social Council (ECOSOC) Special Consultative Status, since 2012.

In the context of the issues faced by North Korean mothers and their children, PSCORE has undertaken significant efforts to address the challenges and advocate for their rights. The organization provides support and assistance to North Korean defectors, including mothers who have been separated from their children. PSCORE recognizes the emotional and psychological trauma experienced by these mothers and aims to alleviate their suffering through various programs and initiatives.

FORCED REPATRIATION OF MOTHERS FROM NORTH KOREA

The impact on Chinese citizens: husbands and children in crisis

EXECUTIVE SUMMARY

This report, prepared in view of the forthcoming UN Universal Periodic Review (UPR) of China, addresses the alarming issue of North Korean women residing in China and the humanitarian crisis surrounding their predicament. For two decades, these women have been victims of human trafficking, sexual exploitation, and forced labor in China.

Focusing on the situation of mothers from North Korea and their Chinese families, the report calls for an immediate halt to forced repatriation and the release of all detained North Korean mothers. It further demands a revision of the current policy to consider the rights of Chinese citizens impacted by forced repatriation, offering compensation and psychological support to distressed Chinese husbands and children.

Recognizing the profound toll of family separation, the report advocates for the right of Chinese children to meet their mothers living in South Korea and for a safe return for North Korean mothers after repatriation or have left to a third country, such as South Korea due to forced repatriation policy.

Moreover, the report stresses the urgent need for collaboration with the UN in monitoring and reporting on the status of North Korean women in China. It calls for the establishment of a refugee selection mechanism in line with international standards, transparent reporting of repatriation details, and the provision of temporary protection to North Korean defectors.

Finally, the report demands enforcement of strict regulations against human trafficking, assurance of the right to seek asylum for North Korean women, and exploration of resettlement options in third countries, such as South Korea.

By implementing the report's recommendations, China would not only uphold the rights of North Korean defectors but would also align itself more fully with international human rights laws. The ultimate aim of this report is to contribute to the creation of a secure and respectful environment for North Korean women and their Chinese families, providing them a life free from fear and uncertainty.

UPR CHINA (45TH SESSION)

Joint Submission to the United Nations Universal Periodic Review

A. Background

1. North Korean Women in China

1. The plight of North Korean women in China is a humanitarian crisis that has been escalating for 20 years. Thousands of North Korean women, driven by extreme economic deprivation, hunger, and political repression in their homeland, have made the perilous journey to China, only to find themselves trapped in a web of exploitation.
2. It has been observed that a substantial majority, about 90%¹, of these women end up as victims of human trafficking, being enticed with job opportunities or forcibly abducted, then traded as brides to Chinese men. While some marriages may provide a degree of security and refuge, many North Korean women endure severe abuse, sexual exploitation, and forced labor². 78.7% of North Korean women had children in China, with an average of 1.37 children³.
3. Living largely unregistered, these women perpetually fear being sent back to their home country. China does not acknowledge their refugee status, rather, perceives them as unlawful economic migrants⁴. This perception leads to frequent raids in living quarters, resulting in their capture and forced deportation to North Korea. These forcible repatriations are carried out regardless of the individuals' circumstances, including pregnant women, mothers with Chinese children, and victims of human trafficking.
4. In China, these women are further marginalized due to their lack of legal status. They have limited access to healthcare, education, and employment, exacerbating their vulnerability and hindering their ability to seek protection or redress.
5. In essence, the precarious existence of North Korean women in China is characterized by human rights abuses at every turn: their fundamental rights to life, liberty, and security of person are continually violated. Their inability to claim asylum, coupled with the constant threat of forced repatriation, perpetuates a cycle of fear, exploitation, and abuse.

¹ RFNK. (2022). Human Rights Report for Forced Repatriation. p.28

² Ibid., p.29

³ Ibid., p.21

⁴ Song, L. (2018). China and the International Refugee Protection Regime: Past, Present, and Potentials. *Refugee Survey Quarterly*, 37(2), 139-161.

2. China's Forced Repatriation Policy Discussed in the International Community

2.1. Recent Issues Raised by the International Community to China

2.1.1. UN Committee on the Elimination of Discrimination against Women (2023)

6. The matter of North Korean women in China was confronted by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) in 2023. Several relevant articles were invoked during this discussion⁵. Commissioner Reinarte's inquiry, based on the trafficking provisions of Article 6, highlighted the predicament of North Korean women in China who are at risk of deportation solely due to their unregistered status⁶.
7. Offspring of North Korean women and Chinese fathers face a multitude of legal complications. One significant issue is the legal hurdle in birth registration, which may potentially expose the undocumented status of the mother, thereby risking her detection and possible deportation. Children are often registered by their Chinese fathers only after the North Korean mother has defected to South Korea or been deported to North Korea, usually under the false pretense of the mother being missing or dead. This policy deprives women of their motherhood and children of the opportunity to be recognized by both parents, favoring the Chinese father as the sole legal parent.
8. CEDAW's closing remarks and recommendations illuminated serious apprehensions regarding the numerous discriminatory obstacles North Korean women encounter in their quest for justice⁷. It spotlighted China as a destination for trafficking women and girls from North Korea for sexual exploitation, forced marriage, or concubinage, while also expressing concern about the characterization of North Korean defectors as "illegal immigrants"⁸ and their consequent forced repatriation. CEDAW indicated further worries about the denial of rights to children born to North Korean women in China, as the necessary birth registration could risk exposing their mothers to deportation. Alongside these concerns, the Committee's final conclusions underscored the inadequate data on instances of discrimination against these women.

⁵ The addressed articles included Article 6 (concerning trafficking in persons), Article 9 (pertaining to nationality), Article 12 (regarding health care), and Article 13 (on social assistance).

⁶ Committee on the Elimination of Discrimination against Women. (2023). 1977th Meeting, 85th Session. Available at: <https://media.un.org/en/asset/k17/k17kia36io>

⁷ Convention on the Elimination of All Forms of Discrimination against Women. (2023). Concluding observations on the ninth periodic report of China. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2648&Lang=en

⁸ China is mislabeling North Korean defectors as "illegal immigrants," resulting in their forced repatriation. The term "illegal immigrant" is incorrect, as it implies criminality; escape from North Korea is not a crime. The correct term is "undocumented" or "irregular" migrant, because "illegal" risks violating rights and encourages discrimination.

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2.2. The State Policy of China on the Repatriation of North Korean Defectors

9. China's stance on the forced repatriation of North Korean defectors has remained largely unchanged for over two decades, articulated through a series of official narratives. Among these is the state policy, which persists in labeling North Korean defectors as illegal economic migrants, as opposed to refugees seeking asylum.
10. In response to concerns raised by the UN CEDAW Committee in 2023, China continued to maintain this perspective⁹. The Chinese Foreign Ministry, upholding China's status as a signatory to the Refugee Convention, asserted that North Korean defectors come to China for economic reasons, hence do not qualify as refugees. They further argued that their approach to this issue abides by national and international law, particularly humanitarian principles, underscoring that these defectors are people who have entered China illegally.
11. China's stance was mirrored at the UN General Assembly Third Committee in 2018, where China also asserted that its defectors are criminals, not refugees. Furthermore, at the UN COI Commission of Inquiry on Human Rights in North Korea in 2013, China defended its repatriation policy, insisting that the defectors were neither refugees nor victims of torture.
12. Historically, China's state policy has proven adaptable according to the US Congressional-Executive Commission on China (CECC) Hearing¹⁰. In 1998, in the face of evidence contradicting their claims, Chinese authorities admitted to arresting and forcibly repatriating North Korean defectors. However, they reassured the world that defectors would not be punished if returned to North Korea. Subsequent revelations of persecution led to further adaptations of the state policy—that defectors were economic migrants or illegal immigrants, not refugees.

⁹ Committee on the Elimination of Discrimination against Women. (2023). 1977th Meeting, 85th Session. Available at: <https://media.un.org/en/asset/k17/k17kia36io>

¹⁰ US Congressional-Executive Commission on China. (2004). The plight of North Koreans in China: A current assessment. U.S. Government Printing Office. Available at: <http://www.cecc.gov>

3. Call for Immediate Halting of Forced Repatriation

13. Despite ongoing international concern, the practice of forced repatriation in China continues. These inhuman actions against North Korean women can be classified as crimes against humanity, considering the human trafficking, torture, and deportation that these women are subjected to.
14. The ongoing policy of forced repatriation carried out by the Chinese government has grave implications for the human rights of North Korean mothers and their Chinese families¹¹. This distressing policy predominantly affects women who have been trafficked into China and then forced into involuntary residence in China. They face constant fear of deportation back to North Korea, where they could be subject to severe punishments, including torture, inhumane treatment, and even death. Their Chinese-born children also experience significant psychological trauma due to the abrupt separation from their mothers¹².
15. It's therefore critical that the Chinese government immediately cease this policy of forced repatriation, marking a significant step towards respecting and protecting the human rights of these North Korean mothers and their Chinese families.

¹¹ RFNK. (2022). Human Rights Report for Forced Repatriation. p.25

¹² Ibid., p.40

B. Survey of Human Rights Violations in China

1. Human Rights Abuses of North Korean Mothers in China

1.1. Involuntary residence in China due to human trafficking

16. The human rights abuses endured by North Korean mothers in China extend beyond individual injustices. The widespread and systematic nature of these actions – encompassing human trafficking, torture during forced repatriation, and forced population transfer – positions them as crimes against humanity.
17. A considerable challenge facing female North Korean defectors in China is human trafficking. 90% of respondents were revealed to be victims of this crime, as reported in the 2021 human rights report by RFNK on forced repatriation. Compounding this, three-quarters of Chinese husbands residing in South Korea acknowledge the seriousness of the trafficking market in China¹³.
18. Involuntary border crossings due to trafficking or abduction occur in 11.3% of cases among North Korean defectors¹⁴. Predominantly female (~70%), these defectors are highly susceptible to trafficking and sexual exploitation. Many North Korean women end up being sold as brides to Chinese men or forced into the sex trade. The children born of these forced marriages often lack legal status, further entangling their human rights situation.
19. The vulnerability of North Korean women in China extends to a high risk of sexual violence. The gender imbalance in rural China fuels the trafficking of North Korean women and girls for forced marriages or sexual exploitation¹⁵. Frequently subjected to physical and sexual violence, these women live in constant fear of being deported back to North Korea.
20. Tragically, most women crossing the border are trafficked by Chinese brokers to Chinese husbands. They secretly give birth in China or attempt to flee to evade China's forced repatriation policy. The Chinese government's failure to protect these women and their Chinese children constitutes an additional layer of human rights violations inflicted upon Chinese citizens including husbands and children.

1.2. Childbirth and Family Life with Chinese Husbands

21. Life in China for North Korean women, particularly when dealing with childbirth, is fraught with peril and hardship¹⁶. Due to their legal status, these women are denied access to basic medical care during childbirth. In their desperation, they resort to illegal hospital visits in the middle of night, accompanied by the payment of substantial bribes. Even then, they are forced to leave the hospital immediately after giving birth.
22. Childbirth, already a vulnerable experience, becomes even more so in these unsanitary conditions. Alone and without medical assistance, these women bear their Chinese children in

¹³ RFNK. (2022). Human Rights Report for Forced Repatriation. p.28

¹⁴ Ibid., p.19

¹⁵ Ibid., p.55

¹⁶ Ibid., p.78

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environments that put both their lives and the lives of their newborns at great risk.

23. Life with Chinese husbands, who are often part of the trafficking process, is complex and challenging. These women live under constant fear of deportation due to China's forced repatriation policy. Yet, they strive to create a family life within this grim context, continually threatened by the realities of their unstable status and the ever-present danger of being returned to North Korea.

1.3. Regional Temporary Residence Permit

24. Since 2020, North Korean women in China have been issued Temporary Residence Permit, with fines for non-compliance ranging from 5,000 to 8,000 yuan, varying by region¹⁷. However, these permits only allow them to live within a limited scope. While they allow for local travel by bus or taxi, they exclude holders from air and train travel, and crucially, from accessing healthcare services, even at their own expense.
25. Our survey conducted from May to June 2020, involving 221 North Korean women in China, found that 81% of respondents affirmed they were lured into registering for these temporary resident permits by Chinese public security officers, promising non-repatriation and urging them to stay and protect their Chinese families¹⁸.
26. An investigation in June-July 2022 into six Chinese regions revealed that the registration of these women for temporary residence occurred through various means, including voluntary compliance, coercion, and intimidation¹⁹. Notably, the temporary residence permit does not equate to a family register.
27. These North Korean women must report to public security agencies twice a month for cell phone inspections, a clear infringement of their privacy and a violation of their human rights. In addition, a recent investigation in July 2023 found that some women who had registered for temporary residence in Jilin province are now detained under China's repatriation policy.

¹⁷ RFNK. (2022). Human Rights Report for Forced Repatriation. p.82

¹⁸ RFNK. (2020). Human Rights Report for Forced Repatriation. p.123

¹⁹ RFNK. (2022). Human Rights Report for Forced Repatriation. p.72

2. Harms Inflicted on Chinese Citizens due to Forced Repatriation

2.1. Human Rights Violations of Chinese Men with Wives from North Korea

28. China's policy of forced repatriation does not exclusively traumatize North Korean women; its destructive impacts also extend to their Chinese husbands and families. The harm they face, often manifesting as physical abuse, severe psychological harm, and immigration to South Korea, is not an individual issue but rather of broader societal conditions and policy shortcomings.

2.1.1. The Struggles of Chinese Husbands and Family Members (wife rescue, police beatings)

29. Chinese husbands resort to desperate measures, such as following their wives to the border and bribing officials, in attempts to rescue their wives from repatriation²⁰. They also seek help from North Korean families at the border, providing advice, cooperation, and economic support to expedite the rescue. This arduous process often leaves their Chinese children in the care of elderly relatives, fostering anxiety and fear among the young ones.

30. Moreover, there are reported cases of Chinese husbands and their families facing physical abuse during the arrest and deportation process. Of 300 Chinese husbands residing in South Korea surveyed in 2020, 27.7% reported that they or their family members had been beaten during their wives' arrests²¹.

2.1.2. Long-term trauma suffered by Chinese husbands and families

31. The forced repatriation policy has led to long-term trauma for Chinese husbands and families²². 70% of the surveyed North Korean women said their families were terrified during their arrest by Chinese police. Among Chinese husbands in South Korea, 88.3% reported fear during these arrests, and 63% admitted to having nightmares about the repatriation policy, with 30% still experiencing these nightmares even after a decade in South Korea. In extreme cases, the policy has led to suicide, as in the case of a disabled Chinese husband whose North Korean wife was forcibly repatriated. In one extreme case, a Chinese husband with a forcibly repatriated North Korean wife committed suicide.

²⁰ RFNK. (2022). Human Rights Report for Forced Repatriation. p.27

²¹ Ibid., p.26

²² Ibid., p.32

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2.1.3. Immigration of Chinese families to South Korea to escape China's forced repatriation policy

32. As a response to the palpable fear and distress, Chinese families have been compelled to immigrate to South Korea to escape China's repatriation policy. This drastic step underscores the widespread sentiment of injustice among the affected population; 91.7% of surveyed Chinese husbands deemed the forced repatriation policy as unfair²³.
33. In conclusion, the human rights violations extend beyond the North Korean women and profoundly impact their Chinese husbands and families, causing physical abuse, long-term psychological trauma, and migration. The desperate struggle for survival and dignity is a daily reality for these families.

²³ RFNK. (2022). Human Rights Report for Forced Repatriation. p.33

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2.2. Human Rights Violations of Chinese Children with North Korean Mothers

34. The forced repatriation policy of China's government brutally extends its ramifications to the innocent lives of Chinese children born to mothers from North Korea, violating their fundamental rights to life, survival, and family unity.

2.2.1. Pregnant North Korean Mothers : Forced Abortion and Drowning

35. Under the North Korean government's policy that views the birth of Chinese children as treasonous, pregnant women are forcibly subjected to abortions. One such victim, who was repatriated when three months pregnant, reported being administered an abortion injection and being sent immediately to a forced labor site following the procedure. Within a week, she collapsed from severe blood loss. Yet, after being unconscious for three days, she woke up, only to be sent back to a forced labor camp, illustrating the gross violation of her rights and health.
36. Even more horrifyingly, North Korean security officials have been known to drown newborn Chinese children in front of their mothers. From the survey data conducted in 2020, three witnesses reported firsthand experience of this atrocity, while 31% heard about such incidents²⁴. The trauma from witnessing these barbaric acts severely impacts the mental health of these women, sometimes leading to infertility despite no physiological impediments.
37. The Chinese government, despite knowledge of North Korea's policy against Chinese babies, forcibly repatriates pregnant women, making it complicit in these gross human rights violations.

2.2.2. Prolonged separation of Chinese children from their parents

38. A further egregious transgression of human rights is the forced and long-lasting separation of Chinese children from their mothers from North Korea, resulting from the policy of forced repatriation. This separation, as reported in several case studies and interviews²⁵, causes substantial emotional distress to these children. This emotional trauma occurs irrespective of whether they are cared for by a Chinese family in their mother's absence or not.
39. In conclusion, the forced repatriation policy's human rights violations extend to Chinese children with North Korean mothers, encompassing horrific incidents of forced abortions and drownings of newborns and leading to prolonged separation from their mothers. These actions are a clear violation of the fundamental rights of Chinese citizens and an unforgivable display of disregard for human life and dignity.

²⁴ RFNK. (2022). Human Rights Report for Forced Repatriation. p.27

²⁵ Ibid., p.61

3. Efforts and Hardships of Mothers from North Korea to Protect Their Chinese Children

3.1. Efforts to Reunite Children

40. The harsh reality of forced repatriation does not end the fight for family unity for mothers from North Korea, with numerous instances of attempts to reunite with their children in China.

3.1.1. Re-defection after forced repatriation

41. Almost all women who were trafficked and bore a child during their first escape from North Korea strive for second defection after repatriation due to their motherhood. They undertake the perilous escape again, knowing full well that they may be re-trafficked. In interviews with victims of forced repatriation conducted by RFNK over the past five years, about 80 percent said they defected again to see their children again. Yet, merely 10% return to their initial Chinese husbands, with most facing a second round of trafficking. They responded that they would rather endure prison and even death over the continued separation from their children.

42. However, re-defection doesn't assure immediate reunification with their children. Financial constraints often lead to re-trafficking, as brokers demand compensation for their transportation. In some rare instances, as one mother illustrated, it was possible to negotiate with the first trafficker to retrieve her child, highlighting the relentless struggle of these mothers.

3.1.2. Supporting children after arrival in South Korea

43. Upon reaching South Korea, the endeavor to support their children continues. Mothers make considerable efforts to establish stable lives and ensure the well-being of their children in China, overcoming the scars of their traumatic experiences. This dedication represents an ongoing testament to the resilience and love of these mothers amidst dire circumstances. Their relentless pursuit of safety and stability for their children underscores the urgent need for policy changes to protect these families from the horrors of forced repatriation²⁶.

²⁶ RFNK. (2022). Human Rights Report for Forced Repatriation. p.62

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3.2. Suffering from Child Separation

44. Half of Chinese husbands answered that they had heard of a case where a Chinese husband told his child that the mother had abandoned her child during the separation period when the mother attempted to go to South Korea²⁷.
45. The effects of forced repatriation go beyond immediate distress, often leading to long-term separation between mothers and their children, causing significant impact²⁸. One illustrative example is the case of a North Korean woman who was trafficked three times, each resulting in her being sold. After her second trafficking experience, she attempted to reconnect with her child from her first forced marriage, but was met with rejection. To shield the child from the brutal truth of forced repatriation, the Chinese family had told the child their mother had abandoned them. The child, as a result, rejected their biological mother, adding to the complexity and hardship of the situation.
46. Such manipulations, driven by an unjustifiable fear of the truth, exacerbate the suffering of these families²⁹. The false story creates a situation where children do not recognize their biological mother as their mother and turn away from her. These circumstances, invariably, lead to the permanent severance of the mother-child bond, inflicting a life-long emotional wound on both the mother and child³⁰. The sorrow and emotional toll of such situations underscore the devastating human rights implications of China's forced repatriation policy.

²⁷ RFNK. (2022). Human Rights Report for Forced Repatriation. p.40

²⁸ Ibid., p.31

²⁹ Ibid., p.40

³⁰ Ibid., p.62

C. Chinese Government Policy Toward Mothers from North Korea

1. Legal Status of North Korean Defectors in China

47. The legal status of North Korean defectors in China currently occupies a vague and precarious position. Although international law outlines principles of non-refoulement, China does not grant North Korean defectors the protection of asylum seekers.
48. Chinese domestic law is also ambiguous. While the 1982 Constitution and Foreigners' Entry and Exit Management Law of 1985 do permit the right to asylum for political reasons, China treats North Korean defectors as illegal immigrants or economic migrants³¹. It does not recognize their potential refugee status, which is a blatant disregard for international law, specifically the principle of non-refoulement under the Convention Against Torture and obligations under the 1951 Refugee Convention³².
49. China's handling of North Korean defectors operates within a legal vacuum, with no specific refugee law. It contradicts China's claim of handling the issue based on domestic and international law, and humanitarianism. While upholding its sovereignty and national interests, China overlooks the human rights of these defectors.
50. The domestic application of treaties is an obligation of each state party, and China should cooperate with UNHCR under Article 35 of the 1951 Refugee Convention³³. China must provide special protection to North Korean defectors, even if they entered the country illegally, including "admission and non-refusal at the frontier" and "all necessary accommodations."
51. China must address these contradictions in its policy and laws towards North Korean defectors, provide clear legal status and protections, and uphold its obligations under international law. It's essential for China to cooperate with UNHCR to oversee the application of the provisions of international treaties and accommodate refugees on their territory.

³¹ Wang, Y. (2018). A Review of North Korean Defectors in International Law - Focusing on Related Chinese Policies. Master's thesis, School of Law, Seoul National University.

³² United Nations. (1951). Convention Relating to the Status of Refugees.

³³ Article 35. Cooperation of the national authorities with the United Nations. Available at: <https://www.unhcr.org/sites/default/files/legacy-pdf/4ca34be29.pdf>

2. Violation of International Law by the China-North Korea Protocol

52. The Protocol between the PRC Ministry of Public Security and the DPRK Social Safety Ministry for Mutual Cooperation in Safeguarding National Security and Social Order in Border Areas, adopted in 1998, has effectively sanctioned forced repatriations for over 20 years³⁴. This treaty allows for mutual cooperation in maintaining national security and social order, specifically in terms of addressing unauthorized entry or residency by citizens from one country into the other³⁵. Articles 4 and 5 of the Protocol, in particular, allow for these individuals, considered as "illegal border crossers," to be forcibly repatriated.
53. The consistent application of this policy towards North Korean defectors, particularly women who have had children in China, raises serious international law concerns. Specifically, the policy of forced repatriation contravenes the principle of non-refoulement, the basis of international refugee law. The principle of non-refoulement prohibits the return of refugees or asylum seekers to countries where they would likely face persecution due to race, religion, nationality, membership of a social group, or political opinion. This principle has been recognized as part of customary international law, making it binding on all states regardless of their specific treaty obligations.
54. The Protocol's violation of international law is evident in its lack of exceptions for individuals fleeing persecution or those subjected to inhumane treatment upon return, such as North Korean defectors. The act of repatriation of these defectors to North Korea, where they are likely to face severe punishments for their defection, undermines their right to non-refoulement.

³⁴ Lee, Kyuchang. (2012). International Treaties and Statutes on North Korean Defectors. Korea Institute of Unification Studies. p.100

³⁵ Wang, Y. (2018). A Review of North Korean Defectors in International Law - Focusing on Related Chinese Policies. Master's thesis, School of Law, Seoul National University. p.52

3. Obligations under International Law

55. China, as a signatory to several international treaties and conventions, carries inherent legal obligations which include upholding the principles of non-refoulement, respecting human rights, and providing protection for refugees and asylum seekers. These obligations extend to North Korean mothers and their children residing in China.
56. The 1951 Refugee Convention, of which China is a state party, clearly stipulates the principle of non-refoulement, forbidding the return of refugees to a place where they would face serious threats to their life or freedom. This principle, binding on all nations irrespective of their treaty status, encompasses mothers from North Korea living in China, who risk harsh punishment if returned to their homeland.
57. Furthermore, as a member of the United Nations, China has a duty to cooperate with the United Nations High Commissioner for Refugees (UNHCR). This cooperation includes granting UNHCR access to North Korean defectors, and facilitating the agency's work in protecting these individuals, assessing their refugee status, and identifying durable solutions such as resettlement.
58. It is vital that China acknowledges and respects these international law obligations, demonstrating commitment to human rights and global cooperation. Compliance would also help alleviate the challenges faced by North Korean mothers and their children in China, paving the way for their safety and dignity.

4. Establishment of Refugee Recognition Procedure

59. An urgent and appropriate procedure for recognizing North Korean defectors as refugees in China is of paramount importance. Despite China's policy to designate North Korean defectors as 'illegal economic migrants,' international law and human rights principles argue for their classification as 'refugees sur place'³⁶ – individuals who may not have been refugees when they left their home country, but become refugees due to circumstances in the host country.
60. Drawing parallels to the treatment of "Indochina Refugees" and "Myanmar border crossers", China has set a precedent for refugee recognition³⁷. There are 303,106 Indo-Chinese refugees de facto integrated pending Government regularization³⁸. Both these groups were provided legal protection under Chinese domestic law, with the "Indochina Refugees" being the only group formally acknowledged as refugees by China. These cases prove that China has the capacity and legal framework to institute a refugee recognition procedure.

³⁶ A person who was not a refugee when they left their country of origin, but who become one at a later date, owing to intervening events. Refugees sur place may owe their fear of persecution to a change in the country of origin, such as through a coup d'état, or to bona fide political, religious or other activities undertaken in the host country. Available at: <https://www.unhcr.org/glossary#refugee-sur-place>

³⁷ Wang, Y. (2018). A Review of North Korean Defectors in International Law - Focusing on Related Chinese Policies. Master's thesis, School of Law, Seoul National University.

³⁸ Available at: <https://www.unhcr.org/countries/china>

FORCED REPATRIATION OF MOTHERS FROM NORTH KOREA

61. We urge China to apply the same legal principles and standards to North Korean defectors, who, like the aforementioned groups, seek asylum due to political instability and economic hardship. Recognizing mothers from North Korea as refugees would enable them to receive international protection and rights, as well as safeguard them against forced repatriation. This process would uphold the principles of humanity and non-refoulement, fulfilling China's obligations under international law.

5. Provisional Protection and Resettlement

62. In addition to the establishment of refugee recognition procedures, we propose the provision of provisional protection for North Korean defectors. This measure, primarily aimed at safeguarding North Korean mothers and their children, would provide immediate relief from potential forced repatriation and offer an essential layer of security during the recognition process.
63. Provisional protection could involve access to basic human rights such as healthcare, education, and employment. It would not only fulfill China's commitment to human rights, but also help in stabilizing social order by preventing desperate actions born out of fear and insecurity.
64. Further, the possibility of resettlement in third countries should be contemplated. This step would be particularly beneficial for those who cannot integrate into Chinese society due to human trafficking, fear of deportation, or concerns over the safety of their relatives in North Korea. Resettlement could be facilitated through international cooperation with UNHCR and other interested nations, such as South Korea.
65. Providing such protection and exploring resettlement options would serve as a testament to China's respect for international human rights norms, and its commitment to uphold the dignity and safety of all individuals within its borders.

6. Conclusion

66. Given the scope and systematic nature of the abuses, these actions can be classified as crimes against humanity, implicating China in significant violations of international law.
67. In conclusion, this report underscores the gravity of the situation faced by North Korean defectors, particularly mothers and their children, in China. It brings attention to the need for immediate suspension of forced repatriation, establishment of legal status for defectors, the respect of international law obligations, the implementation of refugee recognition procedures, and the provision of provisional protection and resettlement options.
68. These recommendations are not just critical for the protection and safeguarding of North Korean defectors' rights but also represent a significant stride towards adhering to China's commitments under international human rights laws. It is anticipated that the implementation of these suggestions will offer a secure environment for North Korean mothers and their children, allowing them to live without fear and uncertainty.
69. In fulfilling these responsibilities, China could serve as a global leader of compassion, solidarity, and respect for human rights. It is our belief that these measures, once adopted, will contribute significantly to resolving the urgent and complex issue of North Korean defectors residing in China.

RECOMMENDATIONS

1. Protect the Rights of Chinese Families Affected by Forced Repatriation:
 - a. Halt the practice of forced repatriation of North Korean mothers with Chinese children and immediately release all detained mothers from North Korea.
 - b. Revise the current forced repatriation policy to consider the human rights of Chinese husbands and their children.
 - c. Offer compensation and psychological support to Chinese husbands and children distressed by the forced repatriation policy.

2. Advocate for Separated Chinese Families:
 - a. Enact policies that respect the efforts and struggles of mothers from North Korea to protect their Chinese children.
 - b. Assure the right of Chinese children, separated due to the repatriation policy, to meet their mothers living in South Korea.
 - c. Guarantee safe return to their children in China for North Korean mothers after repatriation or have left to a third country, such as South Korea due to forced repatriation policy.

3. Cooperate with the UN to monitor and report on the management of North Korean women in China:
 - a. Establish a proper mechanism for selecting refugees among North Korean defectors, in collaboration with international bodies like the United Nations High Commissioner for Refugees, and align existing laws with international refugee selection standards.
 - b. Collaborate with UN partner organizations for transparent monitoring and reporting of the repatriation of North Korean women within China, disclosing the status, dates, numbers, locations of detention, and reasons for arrest of repatriated individuals.
 - c. Provide temporary protection to North Korean defectors, explore options for resettlement in third countries, enforce strict regulations against human trafficking of North Korean women, and ensure their right to seek asylum.