

# Human Right Infringement on North Korean Refugees, Migration Networks and Policy Implications in Asia\*

Choi, Young-jin

(Research Professor, Peace and Democracy Institute, Korea University)

## 국문요약

본고는 국가경영 실패의 결과로 아시아의 경로를 통해 급증하는 탈북 난민의 인권상황을 조사한다. 또한, 글로벌 이주 거버넌스에 거의 방치된 채 있는 아시아에서의 탈북 난민 문제에 영향을 미치는 아시아 관련국의 외교정책, 정보, 자원 및 네트워크를 살펴본다. 중국 당국은 이들을 난민으로 보지 않고 불법 월경자로 간주한다. 따라서 이들 탈북 난민들은 법적 지위가 부재한 가운데 인신매매, 감금 및 폭력 등 복합적인 착취로 침해를 당하고 있다. 북한으로 송환된다면, 힘겨운 감옥형을 감내해야 할 것이다. 그래서 그들은 명백히 '박해의 근거되는 두려움'의 국제적 표준을 충족하는 송환의 두려움을 겪고 있다. 국제 이주 거버넌스가 취약한 가운데, 탈북 난민들은 억압적이고 반기지 않는 아시아 국가들을 직면하면서 주로 브로커가 형성한 사회 연결망을 통해 그들을 대한민국으로 데려오고 있다. 한편, 이런 연결망이 닿지 않은 탈북난민들은 여전히 중국에서 인권침해의 위협에 노출되어 있다. 이러한 글로벌 이주 거버넌스의 취약점과 구조적 난맥을 보완하기 위해서 비정부 기구와 협력을 통해 관련 아시아국가들에 협조를 구하는 국제적 행위자나 중재자로서 정부의 역할이 강력히 요구된다.

주제어: 탈북 난민, 연줄망, 인권, 글로벌 이주 거버넌스

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## I. Introduction

The North Korean refugees<sup>1)</sup> who are victims of human rights violations have increased in China, Mongolia, and Southeast Asian countries. Accordingly, most of them have been heading fast for South Korea via those countries thanks to the brokers together with the help of IT and transportation development. In fact, due to the heavy check-ups and crackdowns, North Korean refugees whose sojourning conditions within China have been exacerbated have been led to exit the country. In doing so they have suffered from the fear strongly associated with their illegal status in the countries where they reside, and there are still a quite number of them in China. Although we have been very concerned with the critical situation of human rights issues as a consequence of state failure<sup>2)</sup> and

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1) According to the 1951 Refugee Convention and its 1967 Protocol, a “refugee” (*nanmin*) is someone who needs protection from well-founded fear. It says: “In the case of a person with more than one nationality, the term “the country of his nationality” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.” (Article 1 A (2) in the 1951 Refugee Convention) A “*refugee sur place*” or “refugee-in-place” (*hyun ji nanmin*) is a person who may not have fled his or her country of origin from a fear of persecution in the first place, but once abroad faces or acquires the fear of punishment.

2) According to the Failed State Index (2009) which evaluates 12 items related to social · economic · political aspects, North Korea has been classified as a failed state with the score of 98.3. See “The Failed States Index,” *Foreign Policy*, July/August 2009, p. 83.

despotic regime in North Korea, we have paid less attention to North Korean refugee issues in Asia as a whole.<sup>3)</sup> Addressing these issues could grant easier access to possible resolution than those in North Korea.

One South Korean Christian leader has compared North Koreans who have escaped from the repressive North Korean regime to the Jews of the biblical exodus.<sup>4)</sup> With the help of religious groups and non-governmental organizations (NGOs), North Korean refugees have been entering South Korea via new routes from third countries in Asia. During their adventurous and dangerous journey, they were not protected and were often threatened to be repatriated to North Korea.

At the start of the 1994 North Korean food shortage, over 50 North Korean refugees entered South Korea. Until 1998, less than 100 had come each year and subsequently 148 entered in 1999. Thanks to the assistance of the brokers and the NGOs, the entrance of the North Korean refugees has conspicuously increased since 2000. In Particular, from 2002 to 2005 over 600 had entered South Korea annually. As seen in Table 1, women began to outnumber men in 2002. The proportion of women was 78 percent in the second half of the 200s, as they were much freer than men who had to go th work or serve in the army. More than 60 percent arrived with some families, and approximately 20 percent were children or adolescents. A vast majority of them went to Mongolia or South East Asian countries via China. As of the end of 2010, over 20,000 North Korean refugees have already entered South Korea. An additional 30,000~100,000

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<sup>3)</sup> W. Lee. "North Korean Women in China: Causes of Flows and Current Situation," *New Asia* Vol,17, No,4 (2010), pp. 76~77.

<sup>4)</sup> An interview with a Christian leader (Feb. 2007).

North Korean refugees are estimated to be residing in China and other Asian countries.<sup>5)</sup>

〈Table 1〉 The Number of North Korean Refugees Entering South Korea

Unit: person, %

Year	Male	Female	Total
~1993	594(92.7)	47(7.3)	641
1994~1998	235(76.8)	71(23.2)	306
1999~2000	269(58.5)	191(41.5)	460
2001	294(50.4)	289(49.6)	583
2002	506(44.5)	632(55.5)	1,138
2003	469(36.6)	812(63.4)	1,281
2004	626(33.1)	1,268(66.9)	1,894
2005	423(30.6)	960(69.4)	1,383
2006	509(25.2)	1,509(74.8)	2,018
2007	570(22.4)	1,974(77.6)	2,544
2008	612(21.8)	2,197(78.2)	2,809
2009	679(23.0)	2,273(77.0)	2,952
2010	578 (24.3)	1,798(75.7)	2,376

Source: The Ministry of Unification

Although there have been a number of North Korean human rights issues in Asia, there are few systematic research studies, only emotionally appealing personal memos. This study aims to investigate the human rights

<sup>5)</sup> An interview with a researcher in Liaoning Academy of Social Science (Nov. 2007) ; More than 20,000 North Korean defectors are now estimated to live in Chinese areas bordering North Korea, with others moving farther into China to avoid detection by authorities, In total, an estimated 100,000 North Koreans now live throughout China (Radio Free Asia, March 3, 2011).

of North Koreans in Asia and to explore how the underlying causes including hard politics inside as well as outside North Korea relate to life safety issues for North Koreans and lead to their migration. It also explore how foreign relations, information, resources, and networks have affected North Korean refugee issues, while leaving behind the near abandonment of global migration governance encompassed on them. This study uses both existing secondary sources such as IGO and NGO seminar materials and interviews with religious leaders, NGO workers and the former 'North Korean Defectors'(former refugees, italicize or New Settlers, italicize)<sup>6)</sup> in South Korea.

In the second section, we review how international migration governance, structural holes, network closure and social network theory are closely related to the North Korean refugees issue. In the next section, we examine the pivotal role of brokerage with the development IT technology and the formation of network formation. In the following section, we investigate the first move - the exit and the adjustment of the North Korean refugees to two neighboring countries, China and Russia. We also take a look at their harsh living conditions in China. Subsequently, we shed light on the repressive Chinese policy towards North Korean refugees. In the next section, we examine their entry routes, either the northern Mongolia route or the southern route through a Southeast Asian country, to come to South Korea and their human right issues in those countries. We conclude with some policy suggestions and future research agenda on how to deal with the

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<sup>6)</sup> The former refugees prefer being called as defectors rather than new settlers due the nuance that they reject the current dictator system in North Korea (The Daily NK, Dec. 14, 2007).

human rights issues facing North Korean refugees in Asia.

## II. Theoretical Perspectives on Refugee Migration

Theories of migration are multifaceted and multidisciplinary due to the unique context of migration. Taking into consideration the multidimensional nature of refugee migration, Lee lists political turmoil, risk of punishment, structural discrimination and prosecution, poverty and family dissolution as the push factors, while regarding personal security, possibility of resettlement, job opportunities, education opportunities, and so forth as the pull factors.<sup>7)</sup> More concretely, she continues to suggest that motives of border-crossing for the North Korean refugees as the push factors North Korean refugees' motivation for crossing the border could stem from both the push and pull factors: the push factors include threats to survival due to food shortage, deepening relative deprivation, increasing risks to take punishments for their crimes, prejudice against them and expectation for a better life while the pull factors include support and protection from the Chinese Korean society, relief activities by international NGOs, job opportunities, increasing demand for females, family reunions, and South Korean support for the North Korean defectors.<sup>8)</sup>

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7) Keumsoon Lee, *Pukhan Chumin ui Kukkyung Idong Silt'ae: Pyonhwa wa Chonmang* [Residence and Movement of North Koreans: Current Conditions and Prospects for Change], Korean Institute for National Unification Research Series 19 (2007).

8) *Ibid.* (2007).

Lee recognizes the importance of diplomatic policies toward North Korean refugees in Southeast Asian countries.<sup>9)</sup> Their human rights policies toward North Korean refugees do not show a lukewarm attitude, while China is very harsh to repatriate them to North Korea. Meanwhile, Mongolia is known to adopt favorable policies toward them.<sup>10)</sup>

Nevertheless, the global governance should have been taken as an important factor that reflects the new international order to minimize the role of the state and disseminate neo-liberalism.<sup>11)</sup> Some studies show that NGOs and International Organizations play a pivotal role in solving global issues, such as those concerning human rights, environment, and security. They emphasize the importance of democratic governance, which promotes a proactive civil society. In doing so they are making the claim that there is a global civil actor. Since the degrees to which countries are democratized vary and some countries have yet to achieve democracy, it is difficult to say that a global civil actor actually exists.<sup>12)</sup> International migration has arisen as an important theme of global governance.<sup>13)</sup> An international immigration management system has evolved drastically. Before

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<sup>9)</sup> D. Lee, "Dongnama eui Bukhan Ingwon Cheongchaek: T'albukja Moonje reul joongsim euro," [Southeast Asia's Human Rights Policy toward North Korea: With Focus on the Problems of North Korean Refugees], *Dongseoyeongoo* [East West Research], Vol.21, No.2, (2009): 171~200.

<sup>10)</sup> Professor Vitit Muntarbhorn, the UN's Special Rapporteur on Human Rights in DPRK sees Mongolia an exemplar country to accommodate the North Korean Refugees (Daily NK, March 30, 2005).

<sup>11)</sup> *op. cit.*, (2007).

<sup>12)</sup> Cohen & Arato, *Civil Society and Political Theory*, The MIT Press, Cambridge (1994).

<sup>13)</sup> *op. cit.*, (2007).

2000, it focused on assistance for refugees. Recently it has been restructured to enhance efficient “management” with an emphasis on migration. The main actors of global governance define “global governance” as a de jure mechanism which purports to organize international relations.<sup>14)</sup> This means that since 2000, international migration issues are not actually dealing with human rights, but instead are dealing with “sound development management.”<sup>15)</sup>

The groups that lead discourses are the Geneva Migration Group, the Global Migration Group, and the International Dialogue on Migration (IDM).<sup>16)</sup> The recent agenda also seems to overlook human rights issues which have a huge negative effect on North Korean refugees in Asia. Even so, the discourse on migration management tends to emphasize negotiation and experience exchange between countries. According to current international law, the right to identify a refugees’s status and to protect refugees belong

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<sup>14)</sup> Alliance for a Responsible, Plural and United World, (2000).

<sup>15)</sup> Sandbrook (2000).

<sup>16)</sup> The main agenda related to global governance of these international migration committees has four main themes: 1) migration and development, 2) migration promotion, 3) migration management, and 4) forced migration assistance. For instance, the themes for the IDM were “Towards Policy Conference” in 2005, “Partnerships in Migration: Engaging Business and Civil Society” in 2006, and “Migration Management in evolving Global Economy” in 2007. The Geneva Migration Group is an inter-agency group, which include IOM and five international organization: ILO(International Labor Organization), UNHCR(UN Refugee Agency), UNHCHR(UN High Commissioner for Human Rights), UNODC(United Nations Office on Drugs and Crime), and UNCTAD(United Nations Conference on Trade and Development). These five organizations were established to share information and promote mutual cooperation regarding international migration issues in 2003.



to the territorial country. UNHCR can intervene in matters of determination and protection only after the county involved grants agreement, acknowledgement or connivance.<sup>17)</sup> thus We took a look on social network theory on international migration as a contentious perspective.

In this situation, the linkage among ordinary people helps to determine their susceptibility to mobilization.<sup>18)</sup> Portes defines the concept of social capital as “the ability of actors to secure benefits by way of membership in social networks or other social structures.”<sup>19)</sup> In fact, the North Korean refugees has remained in the situation of “structural holes” until the beginning of the 2000s. The brokerage across structural holes is the source of value added, playing a pivotal role in saving their lives. Thus, better connected people enjoy higher returns,<sup>20)</sup> with which they would have a chance to enter South Korea. Otherwise, network closure can be critical to realizing the value buried in the structural holes,<sup>21)</sup> when the North Korean government harshly controls the activities of brokers.

Here it would also be argued that both “strong ties” and “weak ties” have been utilized to mobilize the North Korean refugees.<sup>22)</sup> The strong ties bond them together with compassionate religious groups and NGOs and provide them with social support for international migration. However in most cases,

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17) S. Jae, “A Few Legal Issues regarding North Korean Defectors,” *International Symposium on North Korean Human Rights*, (Seoul, 2007).

18) Pickering, (2006).

19) A. Portes, “Social Capital: Its Origins and Applications in Modern Sociology,” *Annual Review of Sociology*, Vol.24 (1998), p. 6.

20) Burt, “Structural Holes versus Network Closure as Social Capital,” (2001).

21) *Ibid.* (2001).

22) M. Granovetter, “The Strength of Weak Ties: A Network Theory Revisited,” *Sociological Theory* 1, (1973), pp. 201~233.

weak ties or instrumental networks of human smuggling to safe destinations were used.

Social network theory introduces the necessary features that institutions must have so as to forge ties that bridge ethnic divisions.<sup>23)</sup> First, the more institutions are based on self-selection, the more likely they are to be homogenous and exclusive. Second, institutions are required to promote ties that are based on rather than on friendship. Third, institution must possess a norm that allows for no less than cooperation. Finally, venues are required to promote repeated, mutually dependent interaction among individuals from different groups. The voluntary organizations or individuals as economic actors develop the social networks, which are either strong ties or weak ties for the North Korean refugees.

To recapitulate, we had better comprehend the nature of the North Korean refugees migration when we take a holistic stance, considering the political and socio-economic factors as well as international and agency factors.

### III. The Network Formation and the Role of Brokerage in the Age of Information

With the rise of network society, castles for sees that the IT technology would help the North Korean refugees' migration thanks to the social and economic dynamics of the information age.<sup>24)</sup> It has been no more than

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<sup>23)</sup> *op. cit.*, (2006).

around ten years since North Korean People could communicate with the defectors in South Korea via phone calls. For the first time, phones were brought in by Chinese smugglers who were required to contact their North Korean counterparts. However, as the number of defectors to South Korea increases, the number and use of cell phones linked to North Korea have been increasing as well. Cell phones are used to make appointments, send people and money or deliver goods that people ordered.

However, not everywhere in North Korea can one talk with Koreans - it is only possible along the Tuman and Yalu Rivers. North Korean border cities and towns are usually located along the river at the foot of the mountain, and the Chinese cell phone signals cannot travel over the mountain. The belt in a narrow and long band along North Korea and outside serves as a window to receive the Chinese cell phone calls between North Korea and outside.

Korean-Chinese people usually act as brokers who smuggle phones into North Korea and pay phone bills, as defectors who live in Korea form a considerable network in China in the course of escaping North Korea. Calls to the acquaintances in North Korea usually occur at night. These phones have become a main tool of communication for many of the North Korean defectors in South Korea trying to keep in contact with their families and friends in the North.<sup>25)</sup>

According to a South Korean official in Ministry of Unification, in 2004 about 1,500 of the 1,894 North Korean who entered South Korea came with

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<sup>24)</sup> M. Castles, *The Rise of the Network Society*, 2nd eds. Wiley-Blackwell, New York (2010).

<sup>25)</sup> *The New York Times* (Jan. 25, 2010).

the help of brokers. The reality is that North Koreans refugees in China could not enter South Korea without the helping hands of the NGOs and the brokers. In case that they are guided by the religious leaders, they are trained to read Bible for more than half a year, so that the North Korean refugees and the religious leaders would form strong ties. After the North Korean refugees safely arrive in South Korea, they present a gift of money to express their gratitude to the Church.<sup>26)</sup>

Defectors, whether they have relatives or not, have been tapping into a sophisticated, underground network of human smugglers operating in North and South Korea, China and Southeast Asia.<sup>27)</sup> The vast majority(80~90%) of North Koreans, who have entered South Korea rely on the brokers. There are two types of brokers.<sup>28)</sup> One is those in charge of supervising the branch brokers in China and other Asian countries. They are usually Koreans of former North Korean defectors. The other is “local brokers”, who are mainly Korean-Chinese or Chinese people who guide North Koreans to the border of China-Mongolia or China-Vietnam. They work with local assistants, who have a keen knowledge of the local environment.<sup>29)</sup>

It is speculated that North Korean asylum seekers pay smuggling fees of US\$2,500 per person to Mongolia and a maximum of up to US\$10,000 if the

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<sup>26)</sup> *An interview with a former North Korean refugee* (Aug. 2006).

<sup>27)</sup> N. Onishi, “With Cash, Defectors Find North Korea’s Cracks,” *The New York Times*, (Oct. 19 2006).

<sup>28)</sup> Y. Han, “Jungkukeui T’albukja Dansok Kanghuajungchaekgua JaejungT’albukjadeuleui T’aljung Rush,” [The Control Reinforcement Policy on the North Korean Refugees land their Rush out of China (July 27, 2007).

<sup>29)</sup> For this reason the local broker who takes the biggest portion actually not only takes actual risks, but also pays costs such as daily expenses-fortransportation, accommodation, and bribing the border guards.

asylum seeker in question is a socially or politically prominent figure in North Korean society. At the high end, around \$10,000 will give relatives a package deal to get family members out of North Korea. This includes helping them acquire fake South Korean passports and get onto a plane bound for South Korea within two or three days.<sup>30)</sup> The northern route is dangerous as it easy to get lost. The broker fee, accordingly, is relatively inexpensive, being two and a half million won (about US\$2,500). If the North Korean takes the Northern route to Mongolia, he would be requested to pay after his safe arrival in South Korea considering the risky and harsh circumstances there. On the other hand, those taking the southern route to Thailand might be requested to pay in advance due to the higher chance to successfully arrive in to South Korea. Most North Koreans in South Korea pay on average about \$3,000 to get relatives out through either Southeast Asia or Mongolia from China.

The resettlement money given to North Korean escapees has led to chain-migrations on a large scale.<sup>31)</sup> The resettlement money was offered as a lump sum shortly after the arrival in South Korea. The North Koreans could use this fund to pay brokers who would help bring their family members in North Korea or China to South Korea via Mongolia or countries in Southeast Asia. In the following sections, we examine the roles global migration governance groups in certain countries, such as the UNHCR, in granting some refugee status for North Koreans and the roles the brokers in Asian countries.

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<sup>30)</sup> An interview with a former North Korean refugee (July, 2007).

<sup>31)</sup> B. Chung, "Between Defector and Migrant: Identities and Strategies of North Koreans in South Korea," *Korean Studies*, Vol.32 (2008).

#### IV. The Situation of Human Rights in the First Move to Russia or China

The decision to flee to China or Russia is not an easy one. Harder still are making that flight viable and living with the consequences.<sup>32)</sup> Since their government denies freedom of movement, North Koreans either need travel permits or plan a clandestine escape - on foot or by swimming across the Tumen river to China. Otherwise, they flee to Russia to work in the logging industry. In North Korea, leaving the country without state permission is an act of treason punishable by harsh prison sentences.

##### *Runaways in Russia and Precarious Exit to China*

North Korean border with Russia is only kilometers long. It is difficult to cross the Russian-North Korean stretch of Tumen River, which is broad and deep. In 1993, North Korea and the Far Eastern government in Russia made a contrast, "the Trade and Economic Cooperation Protocol." Since then North Korea has been dispatching a number of its workers to Far Eastern part of Russia. In 2003 the number was up to 2,300. It was over 3,300 in 2005 and more than 5,000 in 2006.<sup>33)</sup> In the 1990s, the North Korean laborers worked as lumbermen. This dispatch of workers seemed to aim at debt redemption since North Korea had imported oil from Far Eastern

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<sup>32)</sup> S. Richardson, "The Rights of North Korean Refugees," *JoongAng Daily* (July 9, 2007).

<sup>33)</sup> VOA (Voice of America, Aug. 14, 2007).

Russia. The North Korean government has a consulate to supervise the ten thousand contracted workers in Nakhodka. Whenever it make contracts for lumbermen and construction workers, it requests a prohibition against lumbermen runaways to Russian local government as a matter of the highest priority.

North Korean defector problems began in Russia in the early 1990s, and then moved to China in the mid-1990s. In 1994, a North Korean researcher at the North Korean Science Academy was the first to obtain refugee status from the U.N. High Commissioner for Refugee (UNHCR) in Russian. Since then, no more than ten North Koreans have entered South Korea because Russia authorities have reinforced the control over North Korean refugee. In most cases, the refugee were forcibly repatriated to North Korea. In November 1999, seven North Korean defectors, who had crossed the Russian-North Korean border and went to Vladivostok, sent a request for refugee status to the UNHCR. Robinson, the high commissioner made an effort to solve the problem, but they were sent back to North Korea via China.<sup>34)</sup> In October 2004, the forty-five North Korean workers who attempted to stow away on a foreign ship were arrested in Kamchatka hundreds of kilometers away from their workplace.<sup>35)</sup> Although a former North Korean construction worker, who married a Russian woman, applied for refuge in Russia under the aegis of the UNHCR after running away from the process of repatriation to North Korea, he was rejected.<sup>36)</sup> The power

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<sup>34)</sup> A. Buwalda & M. Lombardo (2005) "Strategies for North Korean Refugees," *The 6th International Conference on North Korean Human Rights & Refugees*, Feb. 14~16, Sogang University, Seoul.

<sup>35)</sup> *Ibid.* (2005).

of the UNHCR acting on behalf of North Korean refugee in Russia looks very limited.

North Korean refugees currently work in various fields such as construction, farming fishing industries and so forth. While they work more than 12 hours a day, they are paid between US \$200 and US \$300 per month. After they pay for insurance, boarding and a bribing for their North Korea boss, they are left with no more than US \$50. It is said that about 2,000 workers are wandering out of the workplace as consequence of the exploitation.<sup>37)</sup> They fear being arrested, and the risk of being sent back to North Korea is high since they have run away from their work places. They also run the risk of becoming illegal residents, since their North Korean bosses have taken away their passports and visas. It is claimed that the North Korean runaways were a very attractive work force for Russian employers due to their illegal status and lack of rights: Russian citizens thus used this cheap work force without any guilt.

The majority of North Koreans cross the border to China because of its geographic proximity. China, which shares a 1,360-kilometer border with North Korea, has proved to be a somewhat easier destination for North Korean refugees to reach by crossing the frozen Tuman River in the winter.<sup>38)</sup> Across the border in China, there is also a fairly large ethnic Korean community with the Yanbian Korean Autonomous Prefecture as the center.

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<sup>36)</sup> The Daily NK (Dec. 12, 2007): The refugee whose name is Keuncheol Chung was waiting for the decision allowing him to for take refuge in South Korea or a third country.

<sup>37)</sup> *op. cit.*, (2005).

<sup>38)</sup> B. Lintner, "A Perilous Escape from Pyongyang," *Far Eastern Economic Review* June: 28~33 (2007).



Helping the refugees is considered a criminal offense in China. Given the uncertainty and risks of being arrested and repatriated within the border areas, the refugees attempt to escape into the inland China and beyond.<sup>39)</sup>

### *Escape via Western Embassies and other Organizations in China*

The escape period and chosen method of seeking asylum can indicate the defector's social class. The entry of soldiers and experts to South Korea before the mid 1990s was the case of political refugees who would have been punished if they had returned to North Korea. It appears that only those who represented a significant propagandist value, such as North Korean diplomats and Hwang Ghang-yup,<sup>40)</sup> could count on the assistance of the South Korean government. Another privileged group is defectors who have relatives in South Korea or in Western countries. If these relatives are able to pay smugglers about \$10,000, the refugee could arrange for the trip to South Korea.

Breaking into foreign diplomatic missions and agencies has been another method of escape which peaked in 2002. Reckless refugees were compelled to invade foreign embassies and international schools in Beijing.<sup>41)</sup> The first intrusion of this kind occurred in June 2001, when seven North Koreans, all members of the same family, took refuge in the UNHCR. In May 2002, 25 North Korean asylum seekers rushed into the Spanish embassy in Beijing.

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<sup>39)</sup> *Ibid.* (2007).

<sup>40)</sup> He entered South Korea on April 20th, 1997.

<sup>41)</sup> *op. cit.*, (2007).

They were eventually permitted to enter South Korea. However, following that incident, the Chinese authorities installed barbed wire fences around several foreign embassies in Beijing.

As the North Korean economy has deteriorated, more North Koreans have flown into China. After arriving in China they have been coming into South Korea with the help of South Korean missionary organizations and NGOs. These groups act with foreign embassies and international schools in China. North Korean refugees, who have already settled down in South Korea, have been paying the brokers' fee for their family members or relatives. Some of them entered the South Korean Consulate in Beijing with fake passports offered by the brokers, and others have obtained refugee status through the UNHCR in other parts of Asia, after staying in prison for a few months due to their illegal entry. In case that the North Korean refugees have made the decision to escape to South Korea without receiving help, most of them have had to stay in China for a few years. If they were to enter South Korea via the South Korean Consulate, it would take them more than one year because of the required character investigation. As mentioned earlier, if they had not find the right connection, they would have stayed in China for a long period with illegal status.

### *Harsh Conditions and Vulnerable Status in China*

Most North Korean refugees had stayed in or passed China before going to third countries in Asia. As illegal border-crossers, they are extremely vulnerable and were exposed to serious human rights abuses.<sup>42)</sup> We can examine the infringement of their human rights in China, by classifying the

violations into five categories: 1) exploitation, 2) human trafficking, 3) deprivation of the youth's rights, 4) custody and violence, 5) fear of repatriation and so on.

Without any legal status in China, the North Korean refugees are highly vulnerable to multiple exploitations. While North Korean men are more exposed to economic and physical exploitation in the workplace, North Korean women are more likely to be sexually harassed in addition to the exploitation the North Korean men undergo. North Korean illegal migrants are paid between 50 and 70 percent of what Chinese workers earn.<sup>43)</sup> Highly educated North Koreans worked on rearing a herd of cattle on the hills and received no more than 300 yuan a month.<sup>44)</sup> Very often, they are not even paid the small amount of salaries they are supposed to receive.

Human trafficking has been highlighted as an issue facing North Korean female refugees. Their choice is limited: to die of hunger in North Korea or to be sold in to slavery in China.<sup>45)</sup> The overwhelming majority of North Korean women seeking to stay in China form relationships with Chinese men, either through brokers or directly, not as a way to pursue happiness, but as a survival strategy.<sup>46)</sup> while some North Korean women occasionally find suitable partners and end up in loving relationships, most are in effect trafficked, sold to Chinese men or to the owners of brothels and karaoke

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<sup>42)</sup> Chung, (2008) ; Lee, (2008).

<sup>43)</sup> N. Munico, "The Vulnerability of Undocumented North Korean Migrants in China," *International Symposium on North Korean Hum Right*, Seoul (2007).

<sup>44)</sup> Interview with the North Korean refugee (Feb, 2011).

<sup>45)</sup> See Lindsey Hilsum, "North Korea: survival means slavery," *The New Statesman* (Feb, 26, 2007).

<sup>46)</sup> Charney, (2005) ; *op. cit.*, (Nov, 2007).

bars for prostitution. Occasionally, the process of entrapment begins with brokers scouting for the women willing to leave the North.<sup>47)</sup> Many have connections to the North Korean military. North Korean women trafficked into China are moved and traded like merchandise, with many sold as “brides”, kept in confinement and sexually assaulted, according to sources. Many become pregnant with unwanted children. That the number of North Korean female refugees has been plummeting due to the increasing demand for workers in service industry and North Korean women wanting to discover easier ways to find shelters. In the border areas of North Korea and China, trafficking gangs have been very active in approaching North Korean women, deceiving them by offering food, jobs and residences.<sup>48)</sup> Most of the women end up being sold for 400 to 10,000 yuan to those who have difficult getting married because of old age, poverty, handicaps, and so on.<sup>49)</sup> By the same token, most North Korean brides are sold under 2,000 yuan, which is around \$250,<sup>50)</sup> and than a bachelor in the rural China paid 14,000~15,000 yuan to obtain a North Korean wife.

Moreover, the Chinese authorities don't consider North Korean women's marriages to Chinese men legal and as a consequence, their children are not qualified to receive Chinese citizenship. These children also cannot receive a normal education and stay hidden.<sup>51)</sup> Many children of Chinese fathers

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<sup>47)</sup> The Radio Free Asia (March 4, 2011).

<sup>48)</sup> *Ibid* (June 7, 2005).

<sup>49)</sup> The Daily NK (Feb. 6, 2006).

<sup>50)</sup> U,S Committee for Human Rights in North Korea, “The North Korean Refugee Crisis.” (2006), p. 23.

<sup>51)</sup> *op. cit.*, (2007) since January 2007, some local institutions have allowed them to be registered under their father's residence (hukou), in which case they pay 500

and North Korean mothers live in legal limbo.<sup>52)</sup> Registering a child would reveal the identity of the mother. Chinese men who have had children with North Korean women are confronted with a dreadful choice. They can register their child at the risk of revealing the status of the mother, who could be arrested and repatriated to North Korea as an “illegal” migrant, or they can decide not to register the child – leaving the child uneducated. Some of the children are in a terrible state of neglect and malnutrition when they first arrive at the shelter home.<sup>53)</sup> That is why the children still lie in the blind spot in which they are regarded as non-citizens and often stay as orphans in the protection facilities.<sup>54)</sup>

Young North Korean women frequently end up being raped and trafficked to other parts of China, where they are sold as wives or prostitutes. When Chinese authorities arrest trafficked North Korean women, they treat them as criminals instead of victims of a crime.<sup>55)</sup> The women are immediately sent to police jails or detention facilities along the border.

Youths are also deprived of their rights. Yoon examined the situations of the North Korean youth in terms of survival rights, freedom, sexual violence, and transgression of rights to education among other issues, based on a survey in Northeastern provinces of China.<sup>56)</sup> North Korean children in

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yuan (US \$65).

52) Human Right Watch, *Denied Status, Denied Status: Children of North Korean Women in China*, April (2008), p. 2.

53) The Radio Free Asia (Feb. 12, 2010).

54) *Ibid*, (Dec. 24, 2009).

55) K, Davis, “Brides, Bruises and the Border: The Trafficking of North Korean Women into China,” *SALIA Review*, Vol. XXVI, No.1, (2006), pp. 134~135.

56) Yeo Sang Yoon, “Joongkukjiek T’albuk Chungsoyeon Ingyunsiltaewa Gaesunbangan,” [North Korean Refugee Children in China: Their Current Human Rights Situation

China are also extremely vulnerable to arrests, custody, violence, and torture.<sup>57)</sup> Hordes of itallcize (a Korean term meaning “wandering poor children”), and in this context describing wandering North Korean children and young people looking for food and shelter, could be seen in every corner of Yanbian. Deemed illegal immigrants by the Chinese authorities, they live in continual fear of deportation. In many cases, their families have broken-up because their parents left for food and work in the inlands of China. Sometimes, children become separated from their parents within China while trying to flee from the Chinese police.<sup>58)</sup> One poignant example is of a fourteen year-old girl whose mother was repatriated to North Korea.<sup>59)</sup>

Her stepfather sexually abused her, when she ran away to Yanji he chased after her. After a short period of protection from local South Koreans, she was sent to South Korea to escape from her horrible situation in China.

Yoon also points out that there are no secure places for youths to live in and no means for them to receive the basic necessities of life.<sup>60)</sup> Due to their illegal status, they have few opportunities for education and employment. Many North Koreans also do not speak Chinese and are, therefore, at risk of detention. Moreover, in cases where youths spend approximately more than ten years in China, they become fluent in

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and a Proposal for Improvement], *Daehanjeongchihakbo* [Korea Politics Journal], Vol.11, No.2, pp. 343~364 (2003).

<sup>57)</sup> Refugees International, (2004).

<sup>58)</sup> Kristof, (June 4, 2007).

<sup>59)</sup> An interview with a local South Korean in China (March, 2008).

<sup>60)</sup> *op. cit.*, (2003).

speaking Chinese but lag behind in speaking and writing Korean. This is a result of losing the opportunity to be educated in one's own country.<sup>61)</sup>

North Korean youths are easily exposed to and became targets for repatriation when the Chinese authorities cracked down on them before the Beijing Olympic game. Such local living conditions threaten their basic survival rights. Their frequent arrests, investigations, and imprisonments by the Chinese police also threaten the basic live of North Korean youth.<sup>62)</sup> Owing to the inferior local environment, North Korean youths are easily exposed to violations of their human rights.

The fifth plight that North Korean refugees face in China is the poor treatment they receive upon deportation.<sup>63)</sup> They are considered illegal immigrants according to Chinese law, while simultaneously they are also criminals under the North Korean Criminal Code. Border crossers are discriminated against and stigmatized as defectors, who have betrayed their country. For this reason many of the North Koreans who had been repatriated to North Korea return to China.<sup>64)</sup>

As the Chinese government began registering electronic identification certificates in the summer of 2004 and in preparation for the Beijing Olympic in 2008, North Korean refugees in China were in a hurry to escape to South Korea. To cheek this exodus, China recently reinforced border controls and began to conduct house-to-house searches so as to detect North Koreans hiding in villages in Yanbian and elsewhere along the

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<sup>61)</sup> Observed in the North Korean Readjustment Center in Seoul (April, 2007).

<sup>62)</sup> *op. cit.*, (2003).

<sup>63)</sup> *op. cit.*, (2005).

<sup>64)</sup> An interview with a former North Korean refugee (July 2007).

border.

In sum, because of these hardships which they face in China, some North Korean women married to Chinese husbands in the rural China have run away at night time, leaving behind their husbands and children. Other North Korean refugees who also desperately want to escape from the harsh conditions in China are in search for the brokers who would guide them to South Korea.

### *Coercive and Repressive Chinese Policies toward NK Refugees*

As mentioned earlier, North Koreans in China are refugees sur place even if they left North Korea in search of food or employment. If the fact that they met South Koreans, were exposed to South Korean TV show, radio, movies etc. or were linked to any religious organizations was to be revealed, they would be deemed to have committed political-criminal offences in North Korea. These are more severe than the technical crime of leaving the country without official documentation in search of food or work.<sup>65)</sup>

The basic Chinese stance toward North Koreans, who cross the border, is that it considers them not as refugees but illegal immigrants-worse still defectors. The 1960 “Escaped Criminals Reciprocal Extradition Treaty” along with the 1986 “Border Area Affairs Agreement” leads the official Chinese policies towards the North Koreans border-crossers. Under these bilateral

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<sup>65)</sup> D. Hawa, “The Realities and Policies of Third World Nations regarding North Korean Defectors, with an Emphasis of Mongolia and Thailand,” *International Symposium of North Korean Human Rights*, Seoul (2007).



agreements, Chinese authorities subject them to forcible repatriation. A large detention center for refugees has been constructed in Tuman. The refugees are kept there before being sent back to North Korea. 4,809 North Koreans were repatriated to North Korea in 2002.<sup>66)</sup> They could subsequently be punished for the crimes of crossing the border and betraying the mother country.

The main reason for Chinese reluctance to treat the North Korean migrants as refugees is political. Humanitarian treatment might stimulate more North Koreans to seek asylum, which would induce the collapse of the North Korean regime.<sup>67)</sup> The second reason is that Beijing is afraid of undermining Chinese internal security. The Northeast is the center of China's Rust belt, a region of former heavily state-owned enterprises that closed down because they could not compete. There were over 50,000 public protests per year with the Northeast being the epicenter of the public unrest. Thus, the central government does not want to complicate the situation further by putting more people in that area. A Chinese foreign ministry official says, "the refugee flow could have an impact on China's internal security".<sup>68)</sup>

Nonetheless, the Chinese government, in a disgraceful breach of its obligations under the 1951 Refugees Convention and against prohibition on the U.N. High Commissioner for Refugees (UNHCR)'s operating in Northeast China, hands these defectors back to North Korea.<sup>69)</sup> A major impediment

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<sup>66)</sup> *op. cit.* B. Lintner, (2007).

<sup>67)</sup> A. Lankov, "North Korean Refugees in Northeast China," *Asian Survey*, Vol.44, No.6 (2004), pp. 856-873.

<sup>68)</sup> J. Kurlantzick, "Red Herring," *The New Republic*, June 6&13 (2005).

to undertaking a more active role in refugee protection in countries of origin derives from the international refugee regime itself. The UNHCR was designed to appear and thus nonpolitical and strictly humanitarian, is not mandated to politically intervene in governments affairs, despite the clear evidence of human right violation.<sup>70)</sup>

It is obvious that the Chinese government has supported the violation of human rights and has imposed harsh policies on the border-crossers from North Korea in an implicit and indirect way. North Koreans, who have been arrested in China and deported to North Korea, are subjected to face various punishments such as abuse, forced abortion, torture and sentences ranging from several months in the labor camp or in the correctional center to imprisonment in a gulag for life. Execution is conducted even for individuals suspected or confirmed to have met with foreigners or converted to Christianity with the intention of becoming missionaries inside North Korea. According to a North Korean witness, new policy announced by Pyongyang orders that all refugees, including first-time offenders and those crossing the border just for food, be put into prison for six months to three years.<sup>71)</sup> The conditions in the labor camps and prisons are so harsh that they are described as “the Auschwitz of the 21st century”.<sup>72)</sup> They are only provided with watery corn soup twice a day and a heavy workload. Even young women are compelled to carry bricks, in addition to facing physical and

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<sup>69)</sup> Kristof, *op. cit.* (June 4, 2007).

<sup>70)</sup> G. Loescher, “Protection and Humanitarian Action in the Post-Cold War Era,” in A. Zolberg & Brenda P. (eds.), *Global Migrants, Global Refugees: Problems and Solution* (Oxford: Berghahn Books, 2001), p. 187.

<sup>71)</sup> Human Rights Watch, (2007).

<sup>72)</sup> T. Carbes, “Helping Refugees Run Roadblocks,” *Christianity Today*, April (2003).

verbal abuse.<sup>73)</sup> Therefore, knowing what will await them if they were repatriated, these refugees meet the international standard of a well-founded fear of persecution.<sup>74)</sup> Many prisoners thus utilize the opportunities to escape when transferring from labor training camps to provincial detention centers or return to China after they are released. No less than 40 percent of these repatriated to North Korea re-enter China.<sup>75)</sup>

The Chinese authorities were also afraid of a massive exodus of North Koreans and their intrusion into foreign embassies during the upcoming Olympic period. Above of all, the focus is on eliminating the brokers and the human right activists to secure the border between China and North Korea. Sometimes the Chinese authorities utilize the arrested North Korean refugees as spies who pretend to ask th brokers, the human right activists or the NGO workers for help so as to catch them.<sup>76)</sup> Due to heavy crackdowns, there were scores of men arrested and sent to the prisons. The Chinese authorities do not follow the international treaty for foreign prisoners such as periodical meetings with the family, medical check-up, proper water supply, certain amount of sunshine and so on.

Since the bail money has increased,<sup>77)</sup> police authorities also keep an eye on South Korean brokers who were formerly North Koreans. Because on this, former North Koreans who want to meet their family become

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<sup>73)</sup> An interview with a former North Korean refugee (April, 2007).

<sup>74)</sup> *Ibid.*, (2001), p. 184.

<sup>75)</sup> AMNESTY, (Nov. 4, 2006).

<sup>76)</sup> An interview with a South Korean NGO worker (April, 2008).

<sup>77)</sup> Unless they pay the bail (200,000 yuan, US\$27,300), they stay there. The bail money for South Korean brokers is five times as high as that for the Chinese broker (40,000 yuan).

scapegoats, although they are not brokers.<sup>78)</sup> Since Vietnam has not accepted North Korean defectors and Burma and Laos have launched strong crackdowns of them, the broker cost has been increasing. At the same time, as the Chinese authorities Strive to arrest brokers, this also has had an effect on risk coat. The price in the black market such as that for crossing the Tuman River, the border between China and North Korea, rises when the controls are tightened.<sup>79)</sup> Moreover, as China has intensified their surveillance and search activities, North Koreans have to hurry to escape to Southeast Asian countries.<sup>80)</sup>

## V. The Situations of Human Rights on the Second Move from the Third Countries

The North Korean defectors decided to move to the third country for the purpose of security and resettlement after having stayed in China for a certain time. Some of them had succeeded in getting into western embassies, consulates or international schools, and then came to South Korea via the third countries. Otherwise, the majority of them entered South Korea through Korean embassies or UNHCR in Mongolia or the Southeast

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<sup>78)</sup> *op. cit.*, Y. Han (2007).

<sup>79)</sup> The fee to cross the Tuman river has risen up to 5,000 yuan in 2008 (The Daily NK, June 16, 2008). However, as a consequence of the tight watch on the border, it has been recently skyrocketed to 30,000 yuan (An interview from a former North Korean refugee in August, 2010).

<sup>80)</sup> S. Lee, "Dongbuka Juyo Kukgaeui Talbukja Jeongchaek," *Asia Yeongu* 53(3), (2010), p. 233.

countries.

### *Circuitous Routes to South Korea through the Underground Networks*

Currently, the most prevalent ways to go to South Korea are via other Asian countries. North Korea refugees who pursue their survival have embarked on exploring the countries near China in new ways. Since 1999, many have succeeded in going to Mongolia across some 2,000 kilometers of Chinese territory, frequently assisted by South Korea church workers or brokers there and in China.<sup>81)</sup> The Mongolian government policy deals with fleeing North Koreans in a humanitarian way. If they were found by the Mongolian military, they would be sent back to the South Korean embassy in Ulaanbaatar. But, if Chinese guards discover them, they are forcibly deported to North Korea. In the winter, this route cannot be used due to heavy snow and the harsh cold of the inhospitable Gobi desert. Almost six hundred North Koreans succeeded in coming to South Korea via Mongolia in 2006.<sup>82)</sup> This was assisted by the fact that the diplomatic relationship between South Korea and Mongolia is relatively close.<sup>83)</sup>

Another route they prefer is to travel south through China into Vietnam and Cambodia. Since 1997, a South Korean NGO developed the route for

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<sup>81)</sup> *Far Eastern Economic Review* (Aug. 12, 2004).

<sup>82)</sup> *op. cit.*, D. Hawk, (2007).

<sup>83)</sup> D. Lkhagvasuren, (Discussant) *International Symposium of North Korean Human Rights*, (Seoul, Nov, 2007): The economic effects by the South Korean investment constitutes 20~30% of the Mongolian economy.

a North Korean refugee family crossing the narrow part of Mekong river.<sup>84)</sup> In June 2004, for the first time, a few refugees arrived in South Korea only eight days after escaping from North Korea. The quick pace of the escape was guaranteed because of the more developed underground railroad that opened up new paths out of China.<sup>85)</sup> However, after the Vietnamese Permitted 468 North Korean refugees to flee to South Korea in July 2004, border controls were substantially tightened and the route was abandoned because of its political relationship with North Korea.<sup>86)</sup> A South Korean newspaper had revealed the embargo requested by the South Korean government. This brought about strong discontent and repulsion from the North Korean government, which asked the Vietnamese government for an apology and further preventative measures. The South Korean government learned a valuable lesson from this incident-A noticeable number of North Korean refugees should not be sent to South Korea from one specific country once at a time.<sup>87)</sup>

Since then, a few refugees have trickled into Burma. This is because the route is considered extremely risky, as they have to pass through militarized areas of the drug-trafficking golden triangle. Therefore, it is very difficult to pass through this region without the guidance of Christian workers and brokers in order to reach Thailand. After some North Korean refugees make detours to avoid military posts in Burma, They report themselves to the

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<sup>84)</sup> An Interview with a South Korean NGO worker (April, 2008).

<sup>85)</sup> *op. cit.*, (Aug. 12, 2004).

<sup>86)</sup> B. Klinger, "The Tortuous North Korean Refugee Triangle," *Asia Times*, Sep. 22 (2004).

<sup>87)</sup> "Talbukja Jidanibkuk Anpak," [The North Korean Refugees Group Entry into and outside], *Munhwa Ilbo* [Cultural Daily] (July 24, 2004).

Burmese police as South Korean travelers, who have lost passports so as to be sent to the South embassy.<sup>88)</sup>

Currently, the most popular route for North Korean refugees is going to Thailand through China and then the sparsely populated and landlocked Laos, while crossing the Mekong River. Brokers accompany them through China and Laos. After they have arrived in northern Thailand, they are supported by South Korean church groups. Although Thailand is not a signatory of "Convention Relating to the status of Refugees" adopted by the United Nations (UN) in 1951, it does not repatriate "illegal North Korean defectors" to neighboring countries for humanitarian purposes. In August of 2006, one hundred seventy-five North Korean refugees were in custody for thirty days due to illegal entry into Thailand.<sup>89)</sup> In October of the same year, eight-six North Korean refugees who had been protected by a Korean church were held by the police and investigated in the immigration bureau.<sup>90)</sup> They were discreetly sent to South Korea in groups of twenty persons, minimizing the risk of being captured by the South Korea media. The number of North Korean asylum seekers passing Thailand was about seven hundred fifty in 2006 and would be no less than one thousand in 2007.<sup>91)</sup>

Thailand has suddenly arisen as an intermediate base for North Korean refugees, because it has been a magnet country for refugees from

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<sup>88)</sup> An interview with a former North Korean refugee (August, 2007).

<sup>89)</sup> S. Montlake, "Swell of North Korean refugees could strain Thailand's tolerance," *Christian Science Monitor*, Set. 7 (2006).

<sup>90)</sup> The Daily NK (Oct. 25, 2006).

<sup>91)</sup> *op. cit.*, (2007) ; Y. Lee & Kim, "Je 19th Jaeoyt'albulja Siltaejosa," [The 19th Survey for the North Korean Refugees in Overseas], Citizens' Alliance for North Korean Human Rights, Oct. 8 (2007).

neighboring countries since the 1980s. As christian missionaries are well aware of the inferior status of the North Korean, they are willing to help them. However, Thailand prevents the missionaries activities, which tend to foster more illegal entry. In order to avoid the concentration of refugees in a particular country, such as Thailand, diverse routes need to be developed.<sup>92)</sup>

In the mid-2000s, the number of former North Korean refugees to support taking their family or relatives out of China and North Korea increased. They made use of social networks for the family reunion. In this sense, they can be called hybrid networks which help connecting primary networks through secondary networks.

### *Human Rights Issues facing North Koreans on Alternative Routes*

When North Korean refugees reach Asian cities, they are most likely to end up in the poorly conditioned retention facilities. There they have to cope with maltreatment. On the northern route to Mongolia, which is now a democratic state, there are no shelters or resting houses for North Korean refugees. When they do not have enough food and water, they have to rely on the morning dew. If the Mongolian military guards do not find them, they would probably starve to death or be prey to wolves in the desert. If they end up in Mongolian military camps, they are compelled to spend about one month before being sent to the South Korean Embassy in

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<sup>92)</sup> In contrast, only a few North Korean refugees passed through Buram in 2007 (an Interview with a former North Korean refugee, (Dec. 2007).



Ulaanbaatar. During their stay in the camp, in case an interpreter is not available, they undergo mistreatment due to the lack of communication.<sup>93)</sup>

In Southeast Asia, there are a few shelters for North Koreans in Cambodia and Thailand, which were established by South Korean churches. However, if the police find the refugees, they are arrested and put into prison in these countries. Cambodians are neither friendly nor hostile towards North Korean refugees. In most cases, the police requests bribes or impose heavy penalties on them.

North Korean refugees, who had clandestinely lived in China are entering Thailand through Burma and Laos-The southern route that is approximately 7,000km takes 8 to 9 days, departing from a city in northern China to Thailand by bus, train, boat and on foot altogether. the refugees take a bus from Shenyang to Beijing and then a train from Beijing to Kunming for 2~3days, constantly feeling the police search. When they arrive at the near border between China and Laos, they have to Walk the mountains for 18 hours. In Laos, they would take a boat to go to Thailand. During this adventurous journey, they suffer from hunger, thirst, malaria, and the threat to be repatriated to China and then to North Korea.

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<sup>93)</sup> An interview with a former North Korean refugee (Aug. 2007).

(Figure 1) The Route to Southeast Asia for North Korean Refugees



A few examples include the story of a North Korean refugee that had been imprisoned for one month in Laos and for another 15 days in Burma and the one involving three teenagers. In the first case the refugee was fortunate enough to be eventually proven a North Korean refugee by the South Korean embassy in Burma after the South Korean media announced the news that the guide Rev. Jeffrey Park, who was eager to save North Korean refugees was lost in the Mekong River. Three teenagers who sneaked into Laos were also arrested by the Laotian police and were sentenced to three months in prison.<sup>94)</sup> After having been put in the South Korean media spotlight, they came to South Korea under the aegis of the South Korean government. However, due to the relatively small number of

<sup>94)</sup> *Asia News* (April 13, 2007).

North Korean asylum seekers from Burma, Lao PDR and Cambodia, there are a few NGOs dedicated for North Koreans.<sup>95)</sup> Only approximately 1,000 North Koreans could enter Thailand in the year 2006.<sup>96)</sup>

Thailand is thus known as a safe place, although North Korean refugees have been arrested, threatened and sent to immigration detention centers. According to the current illegal immigrant law in Thailand, illegal immigrants would have to pay 9,000 baht (US\$300) or be kept in custody for thirty days. After serving their term in custody they then go through the procedures for expulsion. This had been the case until the previous year when refugees' cases started to be processed by the Office of the UNHCR in Bangkok. Although the process normally takes about three to four months, due to the slow process and the overpopulation, this time is extended to seven to eight months for North Koreans.<sup>97)</sup>

The Thai authorities are rather concerned about domestic and border security as the illegal entry of North Korean refugees in Thailand has sharply increased. Thailand accommodates refugees in six detention centers. In these centers, North Korean refugees face intolerable conditions. There are three hundred and fifty females in a one hundred-person capacity prison cell and one hundred twenty males in a fifty-person capacity cell. Each room of the immigration facility in Bangkok is over-populated.<sup>98)</sup> As a

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<sup>95)</sup> H. Lee, *Human Right of Migrants in East Asia: Case Studies of Migrants in Selected East Asian Countries*, MA Thesis, (Seoul: Korean University, 2008).

<sup>96)</sup> Asia Times Online (Lintner, 2006).

<sup>97)</sup> *Ibid.*, (2006).

<sup>98)</sup> Y. Lee, "Jaeou'l'albukjawa Byuhwauangsang-Dongnamareul Joongsimeuro," [North Korean Asylum Seekers in South East Asia: without change, Who Could Declare that the Buck Sops Here], *2007 North Korean Refugees Resident Support NGOs*

consequence, the refugees do not have even the basic necessities of life, due to the shortages of ventilation, water, and toilet facilities. Because of the deplorable conditions contagious diseases have spread. One North Korean died of a cerebral hemorrhage and another female patient was hospitalized in a critical condition in a Bangkok hospital.<sup>99)</sup> The UNHCR paused undertaking the tasks about North Korean refugees in Thailand as the Thai government faced both financial and facility problems. These issues could increase the tax burden on the Thai people.<sup>100)</sup>

Thai government officials are wary of the North Korean refugees flowing into Thailand. South Korean churches in Bangkok are currently prohibited from contacting North Korean refugees there. Moreover on April 25, 2007, more than 400 refugees went on a hunger strike in an immigration police detention facility in Bangkok, Thailand.<sup>101)</sup> The refugees were protesting against the overcrowded, poor sanitary conditions and the frequent delays in their quest for resettlement in South Korea. After their protest, Thai authorities have been less amiable towards them. In spite of that, the Thai government is most likely to help out North Korean refugees not only because Thailand is one of the most favorable tourist destinations for South Koreans. But also because South Korea offered helping hands when it suffered from the devastating tsunami in December, 2005.<sup>102)</sup>

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*Workers Workshop Proceedings*, (2007).

<sup>99)</sup> *Radio Free Asia* (Aug. 8, 2007).

<sup>100)</sup> The Daily NK (June 8, 2007) ; an interview with the Thai ambassador in South Korea, *HanKukilbo* (May. 29, 2007).

<sup>101)</sup> The Daily NK (June. 8, 2007) ; an interview with the Thai ambassador in South Korea, *HanKukilbo* (May. 29, 2007).

<sup>102)</sup> An interview with the Thai ambassador in South Korea, *Ibid.*, (May 29, 2007): In

The escape route to South Korea and the role of networks have recently changed. After 2009, the case to enter Mongolia has hardly been spotted due to the safety. At the same time, the support from churches in Thailand has disappeared while the UNHCR has not played a crucial role there. Nonetheless, North Korean escape to Southeast Asian countries has been continuing.

(Table 2) Human Rights Infringement on North Korean Refugees in Asian countries

Countries	Cases of Infringement
Russia	exploitation, fear of repatriation
China	human trafficking, confinement, sexually assaulted, prostitution, exploitation, denial of education, custody and violence, fear of repatriation
Mongolia	occasionally harsh treatment
Southeast Asia	arrest and custody, insanitation in the detention centers

## VI. Conclusion

North Korean refugees pursuing resettlement often cross other Asian countries, raising diplomatic and refugee-related security concerns for those governments.<sup>103)</sup> Some consider North Korean refugee issues as being

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2006, the South Korean tourists to Thailand was over 1.13 million.

<sup>103)</sup> North Korean Refugees in China and Human Rights Issues: International Response and U.S. Policy Options (Sep. 26, 2007).

related to the refugee status stipulated by the international law. Most Asian countries, however, do not consider them to be international refugees. Above of all, the Chinese government has been blamed because it considers the North Korean border-crossers as illegal transgressors, not as refugees, who ought to be repatriated to North Korea. Their human rights have thus been infringed through multiple exploitations, human traffickings, detentions and assaults as a result of the lack of legal status. Thus, a vital key to resolving the problem lies in changing the Chinese stance to one that handles them as legal refugees in China, adopting the principle of “non-refoulement”.

In this regard, a multi-level mechanism and approaches should be established to improve their human rights situation in Asia. First of all, global migration governance should be redirected as the sovereignty of socialist countries is in conflict with the international community. They should collaborate to enhance the human rights of ethnic minorities such as Tibetans as well as the legal status of North Korean refugees. The South Korean government should be required to closely cooperate with the US, other nations and international organizations in persuading the Chinese government to accept North Korean asylum-seekers as refugees in accord with the international agreement. Thus, they would be protected under the Refugees Compact of 1951, which observed the principle of prohibiting repatriation.

Second, in order to overcome the weaknesses of the global migration governance, the role of the state and the religious NGOs should be emphasized as an international actor or mediator in Asian and neighboring countries. An NGO-led approach to assist North Korean refugees is more

effective and desirable than government-led ones in that the related authorities in Asia detest the latter. The role of religious NGOs should be strengthened to build up strong networks that help the North Korean refugees as well as the North Korean orphans and alien children born between a Chinese man and North Korean woman. On the grounds that North Korean residents are stipulated to be Korean citizens in the Constitution of the Republic of Korea, the South Korean government should make a concrete and contingent plan to protect North Korean refugees all over Asia just as it protects its own citizens. Relief NGOs play an essential role in the protection.<sup>104)</sup>

Finally, diplomatic relations between South Korea and China would provide at least minimum humanitarian assistance and legal protection should the North Korean refugees become the victims of human rights violations such as prostitution and labor exploitations.<sup>105)</sup> At the same time, the diplomatic relations between South Korea and the other Asian countries would be consolidated to formalize these initiatives into a collective action based on the burden sharing among the governments. The government is required to reinforce mutual relations with former socialist countries - Laos, Burma, Cambodia and others. We would not only understand the nature of the North Korean refugee migration better, but also handle the problem properly while taking into consideration the multifaceted ingredients such as political and socio-economic factors and international and agency factors. For future researches, we would closely examine how the international

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<sup>104)</sup> Overseas facilities such as the shelters run by South Korean NGOs should be supported and utilized to accommodate North Korean refugees ; Yoon (2004).

<sup>105)</sup> S. Lee (2010), p. 165.

migration governance, the state, and the NGOs work to tackle their infringement cases and to fill the structural holes for the North Korean refugees.

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Abstract

## Human Right Infringement on North Korean Refugees, Migration Networks and Policy Implications in Asia

Choi, Young-jin

(Research Professor, Peace and Democracy Institute, Korea University)

The paper aims to investigate the infringement on the human rights of the rapidly increasing North Korean refugees who take several routes in Asia, as a result of the state failure. It also explores how diplomatic policies from the concerned Asian countries, information, resources, and networks have affected North Korean refugee issues, while leaving behind the near abandonment of global migration governance encompassed on them. The Chinese authorities regard the North Koreans as illegal transgressors-not as refugees. Their human rights have thus been infringed through multiple exploitations, human traffickings, detentions and assaults as a result of the lack of legal status. If returned to North Korea they are most likely to endure harsh prison sentences. They have thus undergone the fear of being repatriated, which apparently meets the international standard of a well-founded fear of persecution. Faced with the repressive and unwelcoming Asian states against them, the social networks created by human smugglers have greatly facilitated their arrival in South Korea while the role of global migration governance has been meager. Otherwise, many still lie in a vulnerable position in China without a proper connection. So as to complement the weakness of global migration governance and

“structural holes”, the role of the state should be emphasized as an international actor or mediator in collaborating with the concerned the countries along with concerted efforts with the NGOs.

**KeyWords:** North Korean Refugges, network, human rights, global migration governance.

**최영진** .....

하와이주립대학교에서 문학박사를 취득하였고 현재 고려대학교 평화와 민주주의 연구소에 연구교수로 재직 중이다. 주요 논문으로는 "Aligning Labor Disputes with Institutional, Cultural, and Rational Approach: Evidence of East Asian-Invested Enterprises in China", "아시아 체제이행 국가의 경험이 북한농업에 주는 함의", "동아시아에서의 노동이주의 동학: 경향, 유형 및 개발과의 연계" 등이 있다.