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China's Forced Repatriation of North Korean Refugees Violates International Law

Rep. Chris Smith
Chairman, Congressional Executive Commission on China
Excerpts from Hearing Statement
March 5, 2012

Dozens of North Koreans are today at imminent risk of persecution, torture—even execution—owing to China's decision to forcibly repatriate them in stark violation of both the spirit and the letter of the 1951 Refugee Convention and 1967 Protocol to which China has acceded.

The international community—especially the United Nations, the Obama Administration and the US Congress—must insist that China at long last honor its treaty obligations, end its egregious practice of systematic refoulement, or be exposed as hypocrites

Article 33 of the Convention and Protocol Relating to the Status of Refugees couldn't be more clear:

Prohibition of Expulsion or Return (“Refoulement”): No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

Today's hearing underscores an emergency that begs an immediate remedy. Lives are at risk. The North Korean refugees—disproportionately women—face death or severe sexual abuse and torture unless they get immediate protection. China has a duty to protect.

In recent weeks we have had learned that Chinese authorities have reportedly detained dozens—perhaps more than 40—North Korean refugees. North Korea’s leader, Kim Jong-un, has threatened to “exterminate three generations” or any family with a member caught defecting from North Korea during the 100-day mourning period for the late Kim Jong-il. I believe him.

It’s unclear whether or not the Obama Administration’s food aid to North Korea—some 240,000 metric tons per year—contains any conditions or links to the refugees. It should.

Forced repatriation by China of North Koreans isn’t new. But that doesn’t make what is about to happen to dozens of new victims any less offensive.

According to testimony submitted today by Roberta Cohen, Chair of the Committee for Human Rights in North Korea and Non-Resident Senior Fellow at the Brookings Institution, “China has forcibly returned tens of thousands over the past two decades. Most if not all have been punished in North Korea and according to the testimonies and reports received by the Committee for Human Rights, the punishment has included beatings, torture, detention, forced labor, sexual violence, and in the case of women suspected of become pregnant in China, forced abortions or infanticide.”

For the record, since 2005 alone, I have chaired four congressional human rights hearing that focused in whole or in part on the plight of North Korean refugees and China’s ongoing violations of international law. They include:

- Human Rights in North Korea: Challenges and Opportunities (Sept. 20, 2011)
<http://foreignaffairs.house.gov/112/68443.pdf>
- North Korea: Human Rights Update and International Abduction Issues (April 27, 2006)
<http://democrats.foreignaffairs.house.gov/archives/109/27228.pdf>
- Lifting the Veil: Getting the Refugees Out, Getting Our Message In: An Update on the Implementation of the North Korean Human Rights Act (Oct. 27, 2005)
<http://democrats.foreignaffairs.house.gov/archives/109/24202.pdf>
- The North Korean Human Rights Act of 2004: Issues and Implications (April 28, 2005)
<http://democrats.foreignaffairs.house.gov/archives/109/20919.pdf>

The Chinese government claims that the North Korean refugees are “illegal economic migrants”—not refugees. Furthermore, the Chinese government continues its policy of repatriating North Koreans in China according to a bilateral repatriation agreement that requires it return all border crossers. As we will hear today, in doing so, China is in clear violation of its

obligations under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, to which China has acceded. Under international law and standards, these detained refugees are entitled to protection if there is well-founded reason to believe that they will be persecuted upon return. As our witnesses will attest, we know what the detained refugees face. There are documented accounts, as well as strong evidence. We know that persecution exists.

North Korea is certainly at fault. It must also be stated that China has contributed to the humanitarian crisis through its policy of gendercide—the killing of baby girls by forced abortion of infanticide. China’s one-child policy has led to the worst gender disparity in any nation in history, and that is directly connected to the issue we probe today. According to the 2011 CECC Annual Report, NGOs and researchers estimate that as many as 70 percent of the North Korean refugees in China are women. And some researchers have estimated that 9 out of every 10 North Korean women in China are trafficked. There is a high demand for wives in northeastern China where severe sex ratio imbalances have fueled the trafficking of North Korean women for commercial sexual exploitation and forced marriage.

Our focus today is China’s role and responsibility in solving this immediate problem. At this time, we call on China to uphold its international obligations and take immediate steps to end this cruel policy of sending North Koreans back to persecution or death. China must conform to international norms and allow these refugees safe passage to the Republic of Korea, or grant them immediate asylum. And, we ask that the Chinese government take all necessary steps to meet the requirements of the Convention Relating to the Status of Refugees and its Protocol.

I welcome and thank all of our witnesses. It is an extraordinary honor to welcome Ms. Han Song-hwa and her daughter Jo Jin-hye, former North Korean refugees who are here to share their personal accounts of detention, hardship and loss. I am sure that their reflections and observations will deepen our understanding of this issue and strengthen our insistence that China immediately address this crisis.