“On the Frontlines of the North Korean Refugee Crisis: An Assessment of the UNHCR”

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Presented at the 77th Annual Meeting of the Pennsylvania Political Science Association (PPSA)

Shippensburg University, April 1-2, 2016
Abstract

This paper assesses the independence of the United Nations High Commissioner for Refugees (UNHCR) and its ability to function effectively. The UNHCR is a crucial international institution that addresses refugee crises throughout the world. However, as an international organization, its mandate can be subject to political considerations rather than what may be in the best interests of refugees. This paper focuses on the plight of North Korean refugees fleeing into China, and highlights the ways in which major powers on the UN Security Council, notably China, inhibit the effectiveness of UNHCR operations. The findings suggest that a stronger and more independent UNHCR would better protect refugees who otherwise face dire consequences.
Introduction

Refugees have been abundant over many centuries as people have fled economic, religious, political and social difficulties in an attempt to find asylum outside of their home country. The United Nations, formed after the end of World War II sought to find a solution to the refugee crisis by issuing a statute that formed the Office of the United Nations High Commissioner for Refugees (UNHCR) in 1951.\(^1\) Boasting 98 members, the UNHCR has a broad spectrum of Executive Committee members.\(^2\) Its goal was that of casting an umbrella of international protection that would shield refugees. In order to establish the UNHCR, the United Nations General Assembly first had to define who qualifies as a refugee under the protection of UNHCR. The definition accepted by the UN General Assembly in 1951 defined a refugee as anyone with “a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”\(^3\) Decades later it is obvious that widespread refugee crises are still prevalent especially when looking at the displacement of refugees in the European Union and the wide-scale issues stemming from the Syrian refugee crisis. This brings up the question about the legitimacy and the autonomy of the UNHCR, and whether it is susceptible to being ignored or brushed away by influential and powerful state actors. It becomes a question of examining how effective the UNHCR is at its job. To do this, this paper analyzes another current refugee crisis on the Korean peninsula and whether or not the UNHCR response to this crisis is being impeded by the Chinese government.

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While seeking to find the answer to the amount of influence major powers have on the UNHCR, this paper utilizes a case study methodology. The main case study examined is that of China and its treatment of North Korean refugees, this is essential in shedding light on the UNHCR in its current state. Personal interviews conducted of citizens from China and South Korea offered more perspective to this analysis. Most importantly, however, statistics, government documents, and previous examinations and pivotal works on the UNHCR have been thoroughly explored and researched so that the conclusions that have been met can be supported by an abundance of evidence. The findings have concluded that the influence of major powers like China and other Perm Five members of the United Nations Security Council have affected the UNHCR’s ability to operate as effectively as possible, most notably by using their influence to disturb mandates and inhibit the workings of the UNHCR to benefit their own interests politically. In China specifically, the UNHCR workers are not even allowed to assist the North Korean refugees living in China. To understand how the UNHCR got to China though its creation and formulation in the Cold War era must first be examined.

**History and Creation of the UNHCR**

When Hitler rolled his tanks into Poland in 1939 it was evident that Europe was moving towards a path of complete upheaval. While the world watched in horror millions were displaced, found to be foreigners in their own country and either driven out or killed as the Nazis marched in. German speaking peoples were then moved to these lands from regions all over Europe, only to be driven out towards the end of the war as allied USSR troops marched in seeking to end the war and get revenge for the horrors the Nazis had committed while invading the USSR. Those who did not flee back to Germany faced rape, beatings, and sometimes even death. By the end of World War II, over 50 million people all over the world had been
displaced. This was the most devastating refugee crisis of the 20th century. These refugees were fleeing everything from Communism to religious persecution and were searching for a safe haven and a new place to make their homes. At the end of the war there was no all-encompassing system or body put in place yet to deal with such a large and widespread problem that left millions without a country to return to. The call was then put out to look for a solution to this crisis.

The solution to the refugee crisis that presented itself after the end of World War II was supposed to be solved by the creation of the United Nations High Council for Refugees, or UNHCR. Seemingly well developed and all-encompassing, its mandate was constricted early on by major powers within the United Nations. Developed only to serve the needs of refugees displaced by the Second World War before 1951 and designed to last less than five years, it seemed the UNHCR was finished before it even truly got started. One of the main advocates for a weak and temporary UNHCR was the United States. To avoid a potential financial burden, the United States strove to limit the expansion of refugee protection, and in the early days of the UNHCR it was able to show the influence a major power can have on the effectiveness of an organization. The United States tried to implement a system that limited the UNHCR’s existence therefore brushing it aside rather than propping it up. Although the United Nations had been founded, a movement towards global communication and peace was sought out it was clear that not all issues in the world or even Europe were over. As the short lived mandate cycled to a close, a new refugee crisis was erupting in Europe. In 1956, after Soviet forces crushed anti-communist movements in Hungary, a mass refugee flood poured out of the country seeking

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refuge from Communism. The Hungarians had attempted to fight for their own sovereignty and had failed, leaving millions in search of refuge outside the iron curtain of the USSR, and the United States condemned this action on the Soviets’ part and promptly accepted a vast number of refugees. A few years later during the Cuban Missile Crisis the Soviets again were targeted by criticism from the United States. Soviet leader Nikita Khrushchev said in a response to Kennedy in 1962 that he felt the true aggressors and suppressors were not the Soviets in Budapest but the United States and its allies everywhere else. This crisis in Hungary however extended the life of the UNHCR so that when the decolonization of African countries began in the 1960’s the UNHCR was still in place to help facilitate the refugee flows caused by the political atmosphere in the vastly changing continent. Whether it was white Africans trying to escape revolution and return to Europe, or minority groups fleeing prosecution they were able to look to the UNHCR for protection and assistance in the process of becoming a refugee. From this point onward the UNHCR would grow into a permanent feature in the United Nations system, and the protection of refugees would be held in high regards, at least on paper, for all those who were party to UN treaties. Since its beginnings in World War II, the UNHCR would not until the 21st century face a level of crisis in which over 50 million refugees were seeking protection at the same time.

Reaching out from beneath the shadows of dominance, Auguste Lindt, a former High Commissioner to the UNHCR from 1956-1960, pulled the UNHCR out of the depths and into a major role of refugee safeguarding. Pinning the United States and the West against the Soviet Bloc, Lindt was able to encourage funding to expand refugee operations in Algeria and

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Hungary.\textsuperscript{9} Under his guidance, while major powers battled for influence over areas, the UNHCR steadily gained more independence from the bullying of major state powers as it slowly opened more and more offices around the world in many different countries, the offices were typically located in the capital cities of these countries, though the main office of the UNHCR was located in Geneva, Switzerland. By 1967, an additional protocol was added to the UNHCR mandate, and many more countries added their signature to the new UNHCR document that universalized international protection of refugees.\textsuperscript{10} It is impossible to say that the UNHCR however was able to gain this fundamental step due to the ambivalence of countries. Most states that came to support the expansion of UNHCR protection were in favor at least in part because of selfish interests. Some felt by becoming involved they could politicize issues that might make their enemies look bad in the international viewpoint; others felt they could shield themselves from criticisms or gain influence in certain areas. As these powers helped boost the UNHCR, they also began to dismantle it from within for the benefit of their own political advancement.

Under the auspices of lax wording and unspecified mandates, the countries that signed the UNHCR began developing ways to maneuver around it. Selfish motives fueled the passing of laws that surreptitiously stripped asylum seekers of rights and quickly began limiting ways of access. After signing the UNHCR, countries were required to provide refuge for persecuted people, people that fit under the agreed upon definition mentioned earlier. This agreement however did not stipulate that countries must allow refugees to arrive, only that they must help refugees upon arrival. This help must include shelter, food, and a process in which to seek relocation whether it is by returning to their home country once safe, remaining in the country of


\textsuperscript{10} Ibid, 123-125.
refuge, or going on to a new country to find citizenship and settlement there. Actions taken by larger powers was common. For example, boats filled with refugees would be denied access to port in countries that were signatory to the UNHCR mandate.11 Because no laws stipulated the actions of countries before the refugees arrived on their territory, this loophole was used time and time again to refuse asylum to refugees. To avoid responsibilities countries would make it difficult or even impossible for refugees to get within their borders. This meant that if they were able to keep them from ever stepping foot on their land, that they kept them from getting refugee status. A stipulation later added to all signatories of the UNHCR required that government’s that have signed the UNHCR must agree to report refugee status in their country. The major powers and other countries chose to often ignore this request or in other instances the states chose to incorrectly fill out questionnaires and surveys that evaluated their treatment of refugees and asylum seekers.12 The UNHCR could not require that the states fill out the forms because in the original framework of the mandate and the provisions added later there is no information giving the UNHCR this right. Lack of information or incorrect information impedes the UNHCR’s ability to explain and accurately respond to the refugee situations that are unfolding abroad. Since there is no method of direct enforcement either, the UNHCR must sit idly by as states either choose to obey the mandate or ignore it. Yet again, states are interested in preserving their image and avoiding negative criticism, and because of the weak nature of the UNHCR they are able to do that. This evidence suggests that the UNHCR is easily ignored and pushed aside by powerful states making it mostly ineffective at completing its obligations. If other countries were to insist that states follow the rules, then this issue would be avoided. Unfortunately, few countries are willing to take that stance because they are not up for taking large numbers of

12 Ibid, 95.
refugees, realizing the drastic effect it could have on their own nation. It is a game of politics and preservation, and quite frankly, the UNHCR lacks independent executive authority to act decisively and solely for the interests of refugees.

**UNHCR during the Cold War**

In the earlier days of the refugee crisis following WWII that was handled by the UNHCR, western countries and the United States were willing to participate almost entirely due to the selfish advantages taking in refugees could give a country. Often with refugees came a steadier workforce, one that many European countries were lacking in the wake of the devastation of World War II. Workers, especially skilled ones or ones that were willing to work for lower wages, were seen as a great advantage and some European nations were jumping at the chance to get more refugees. Most notably however, the UNHCR and the refugee crises were used to highlight the Cold War and in the western countries eyes, the inefficiencies of Communism.\(^{13}\) As refugees poured into the west, the western countries pointed at the Soviet Union with accusatory eyes. Western Nations used this to show that Communism was not working and that democracy was the way to go, after all millions were flooding out of from under Communist rule looking for salvation in the west. In an address about Vietnamese communism, President John F. Kennedy condemned the actions of Northern Vietnam, citing the flow of over one million refugees from the Communist North to the Democratic South.\(^{14}\) His words concluded that “If this democratic experiment fails, if some one million refugees have fled the totalitarianism of the North only to find neither freedom nor security in the South, then weakness, not strength, will characterize the

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\(^{13}\) Gil Loescher, *The UNHCR and World Politics: A Perilous Path* (New York: Oxford University Press, 2001), 54.

meaning of democracy in the minds of still more Asians.”\(^\text{15}\) President Kennedy in this speech was condemning the Cold War movements to Communism, and was declaring adamantly that it was democracy that people truly wanted, and that it was Communism that vast numbers of refugees were fleeing from.

Looking at the figures, it is obvious that the UNHCR and the refugee situation at the time were being manipulated by major powers, most notably the United States. Through the years 1956-1968 there were 238,436 refugees admitted into the United States, less than 1,000 of those admitted were from non-communist countries.\(^\text{16}\) This visible preference for taking communist refugees can be linked to American cold war mentality, in which the United States did anything in its power to renounce the legitimacy of the Soviet Union and it used refugees as pawns in this plan. Since the United States felt the UNHCR was over-stepping its purpose and they did not support the idea of allowing in refugees for refugee’s sake, and were more interested allowing them in if they felt they could benefit. The United States chose not to fund the UNHCR in many capacities because often the United States did not see the benefit in taking refugees so it did not enthusiastically support the UNHCR. Budgetary cuts were used against the UNHCR when the United States was not particularly fond of who the UNHCR was aiming to aid at certain times. The more benefits the US saw in protecting refugees from certain areas, the more money the US gave to the UNHCR to protect these refugees. Europe also played to these same policies, often refusing people from countries like Pakistan and India who were displaced because of conflict not tied to Cold War politics.\(^\text{17}\) Europe like the United States was not interested in protecting the human rights of all people to seek refugee status to avoid persecution,

\(^{15}\) Ibid.

\(^{16}\) Gil Loescher, The UNHCR and World Politics: A Perilous Path (New York: Oxford University Press, 2001), 55.

\(^{17}\) Ibid, 57.
but was interested only in solving refugee issues if it directly affected them or benefitted them. By taking in refugees fleeing Communism they were reinforcing their idea that Communism was not working, taking in refugees from India and Pakistan was not something they could use as a political statement. They saw no great benefit in taking in other refugees so they did not. In helping draft the original UNHCR mandate, Western Europe and the United States were sure to exclude these countries from protection internationally as refugees.

At the time of the UNHCR’s creation the intention was only to sort out the issues in Europe so that life could continue as normal. The Second World War had just ended, Communism was spreading, the Cold War era was blooming and the last thing the United Nations was looking to do was worry about the status of every single refugee if it meant going out of their way to do something. The United States saw no value in helping refugees that would not advance their own self-centered political motives. After the end of the Cold War, it has become clear that the United States only cooperates with taking in refugees on a seldom basis to keep up appearances. Although the US and other major powers are willing to give money to the UNHCR and recognize its importance, they still push it aside and ignore it when it is convenient. The shift in the UNHCR however clearly occurs at the end of the Cold War and the fall of the Soviet Union and the rise of the importance of human rights.

**China and the North Korean Refugee Crisis**

First it is important to comprehend the extent of abuses in North Korea that drive countries to flee and seek status as refugees in other nations. North Korea is a corrupt, communist, dictatorship that it renowned for human rights abuses. Some citizens are even
subject to being thrown in a concentration camp and being forced to work 16 to 17 hours a day
and undergoing torture.\textsuperscript{18} In a hearing before the US Congressional-Executive Commission on
China statements were made in regards to the circumstances that landed people in these
concentration camps. The case of Kim Hye-sook is referenced, in which she spent 28 years in a
concentration camp because her grandfather was alleged to have fled North Korea.\textsuperscript{19} Retaliation
against family members is something widespread in North Korea; in fact an even more sinister
punishment awaited those who had family members flee in the mourning period of 100 days
after the death of Kim Jong Il. Attempting or succeeding in escaping during this time brought the
immediate slaughter of the entire family of the escapee.\textsuperscript{20} The lack of food is often the greatest
driving force that encouraged North Koreans to abandon their country and attempt to flee as
refugees. Created by a faulty food distribution system run by the government as well as
exasperated by floods, and droughts, famine became prevalent in North Korea in the 1990’s and
2000’s.\textsuperscript{21} Although outside sources attempted to come in and aid North Korea, fear of being
ostracized often kept them from achieving their goal of feeding the hungry in North Korea.
Hundreds of thousands died because of the famines that raked through the country, and many
fled searching for food over the Chinese border.\textsuperscript{22}

It has been estimated that 30,000-50,000 North Koreans escapees are seeking refuge and
living in China and these numbers were generated by the US Department of State: some

\textsuperscript{19} US Congress. House of Representatives. China’s Repatriation of North Korean Refugees: Hearing before the Congressional-Executive Commission on China. 112th Cong., 2\textsuperscript{nd} sess., March 5, 2012.
\textsuperscript{20} Ibid.
estimates gather there are over 400,000 North Koreans living in China. To gain more accurate numbers, there would need to be insured access by the Chinese and North Korean governments to the areas as well as records. Unfortunately because of a desire to keep the matter from sparking criticism these essential information gathering tasks are denied. China allows many to enter the UNHCR offices as a right in their process of seeking refugee status, but North Koreans are “explicitly excluded from this process.” Hundreds of thousands of North Koreans would be deemed economic migrants by the government of China, leaving the UNHCR unable to help them as they were not recognized by definition as refugees under the UNHCR mandate. Since North Koreans are offered little assistance from the Chinese government, they seek the help of “NGO workers, Christian missionaries, local Korean-Chinese and brokers.” Although many have good intentions, most of the assistance comes from brokers who stand to gain financially from the refugee trafficking. This form of work is dangerous, and if caught many North Koreans would face death, torture, or imprisonment in concentration camps along with similar fates for their families. Given the extreme conditions in North Korea, many citizens prefer to be smuggled out of the country and then to places in Europe or the United States where their prospects are the best. Unfortunately many must settle for remaining in countries like China where they have no rights and are under threat of repatriation constantly.

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24 Ibid, 429
One notable success however on the part of the UNHCR is that in the past few decades it has been evident that the UNHCR is developing its strategy to target countries that create refugees rather than simply dealing with the refugees at hand. Although its mission is still to assist refugees seeking asylum, the UNHCR is currently moving in the direction of human rights promotion and preservation. It is worded as “a desire to improve the human rights conditions in source countries that cause refugee flows.”

This new mission has proven to be an arduous one. In places like Asia where human rights treaties are essentially non-existent or developing at best the battle is proving even more difficult. The major power in the region, China, has an extremely questionable history in human rights, but according to the UNHCR website, the country currently contains over 301,000 refugees. This does not include the number of North Korean refugees who China deems “economic” refugees searching for work. They are excluded from the data and ignored, showing the flaws in the UNHCR operations. What this means is that at least in some capacity a country with a rather unfavorable human rights violation record would be willing to meet the UNHCR in some aspects of the mandate but not others. Many world leaders have pushed China to have a “greater respect for human rights…” because it “would benefit China’s success and global stability.”

Unfortunately China still maintains its opposition to human rights lobbying as well as the UNHCR.

What fuels China to deport North Koreans are the Chinese government’s interests to secure its borders while maintaining order and preserving allies in the region. It is evident that the current Syrian crisis in Europe is causing massive issues and this is something the Chinese

27 Tor Krever, “‘Mopping-Up’: UNHCR, Neutrality and Non-Refoulement Since the Cold War,” Chinese Journal of International Law 10, no. 3 (September, 2011), 588.
government seeks to avoid. The flooding of Syrian immigrants into Europe is not only disrupting the economy but causing security concerns and it is reasonable to see why countries have at least some apprehension towards taking in refugees. If only the UNHCR were given enough funding and support it would be able to ease the process not only in Syria but likely in China too if given the opportunity. By treating North Korean refugees poorly, China does not seem like an illustrious or easy place to escape too. In her statement to Congress, Han Songhwa recounted her plight of seeking refugee status in China, over a ten year period she was repatriated to North Korean four times and lived in constant fear of being repatriated to North Korea by the Chinese government. She pleaded with Congress to help “these North Korean refugees… shuddering in fear in China right now and desiring freedom in the free world…” because she knew of their situation personally. Risking everything to escape seems less ideal when the likelihood that China will send you back is high. What North Koreans face upon forced repatriation can include starvation, malnutrition, beatings, forced labor, and sometimes even death. This stems the flow of immigration and keeps it at manageable levels that the Chinese authorities can control. Although likely not the intention, this has a huge effect on North Korean politics. By refusing to hold North Korea responsible for the treatment of its people, North Korea may do whatever it wants. Although China is not actively making Kim Jung Un’s decisions for him it is clear that China is condoning them and granting them a semblance of legitimacy. By not protecting North Korean refugees they are empowering a dictator who starves his people even he event thinks they might go against him politically. This legitimacy, granted by one of the most powerful nations in the world sets a rather ominous precedent. By refusing UNHCR workers to approach

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31 Ibid.  
32 Ibid.  
33 Ibid.
or assist North Koreans in any way, China has thrown its towel in with the lot of countries that use their power to abuse a system put in place to help people, or so the organization’s founding documents claim.

China is by no means the only country guilty of trying to play the system in favor of its own selfish desires. In other studies, the UNHCR has been accused of playing “handmaid to the interests of States – not vulnerable individuals”.

Claims like this one are often based directly on UNHCR’s reliance on financial support from participating major powers like China, and other United Nations Security Council members including France, Great Britain, Russia, and the United States. Cooperation with countries is essential to the UNHCR’s operations, so if it is not able to get the trust and support of these countries it is not able to do anything. It is a vicious cycle then again leaves the UNHCR almost powerless to going against states’ desires. Even in its infancy, the UNHCR was completely reliant on the contributions of states, forcing it to concede to the wishes of the states rather than the mandates of the UNHCR statute. It is evident today that these powerful countries do not jump up all at once to take in refugees even when they have signed the UNHCR charter. Particularly the Syrian crisis embodies this notion of manipulation by world powers as all Security Council countries have been less than generous with taking in refugees from Syria. While countries like Lebanon, Turkey, and Germany have pledged to take over one million refugees the large countries and economies of France, Great Britain, the United States, China, and Russia have all promised asylum to less than 50,000 refugees from Syria, and in the case of China and Russia their refugee acceptance does not even make it on to the charts.

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34 Tor Krever, “‘Mopping-Up’: UNHCR, Neutrality and Non-Refoulement Since the Cold War,” Chinese Journal of International Law 10, no. 3(September, 2011), 608.
because it is so minimal. The argument always resolves around ideas of cultural impacts, economic tolls, and even possible dangers or implications of accepting refugees, but rarely focuses on the plight and dire need of the people who are searching desperately for asylum.

China, famous for claiming that North Korean refugees are economic refugees and therefore are not protected under the UNHCR mandate, is not acting in such a different way from the other global powers. Many country spokespeople question the motives of refugees fleeing from their home countries, and many want to put a label and classification on these refugees that might slow or even bar them from entrance.

The tactic of staling and preventative measures is something that all the powerful countries have also adopted. To get residence in the United States or another powerful country often takes a very long time, and this can serve as a way to discourage refugees from ever seeking to relocate in the first place. Since North Korean refugees are not allowed to be assisted by UNHCR, examples of other refugees living in China that are allowed access to the UNHCR can be used to explain how even the existing UNHCR for other groups of recognized refugees is ineffective. One refugee in particular has been waiting in Beijing for word that he will be relocated for over half a decade. As a refugee from Pakistan he found it difficult trying to assimilate in China where he cannot work even though he is trained in the field of computer science. His frustration was finally answered when he was granted citizenship in Canada, where he and his family would be allowed to relocate. Since China refuses to allow citizenship to refugees all he could do was wait until he got news from any country that was willing to take him. Sometimes the process can take years and over time some refugees choose to change their

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37 Ibid
country of desired relocation in an attempt to hasten the process. Most western countries like the United States have extensively selective programs that go out of their way to make it difficult for these migrants to relocate. Even skilled refugees can often face opposition because of their country of origin or even their race or religion.\(^3\)

This process works differently for North Korean refugees in China because they are dealt with by Chinese officials rather than UNHCR staff. Once discovered to be living in China the North Koreans must register with the authorities and state the country in which they are trying to relocate to.\(^3\) Many would prefer to go to South Korea not only because it shares the same language and culture but because the refugees are often processed to South Korea faster and are granted citizenship upon arrival.\(^4\) Unfortunately these North Koreans who indicate that they would like to relocate to South Korea receive the worst punishments if they are sent back to North Korea by the Chinese government. In particular there have been examples where Chinese authorities have targeted these North Koreans seeking refugee status in South Korea and sent them back to North Korea to face repatriation more than those North Koreans seeking asylum in other countries besides South Korea. This attempt to relocate to South Korea is considered an ultimate betrayal of the North Korean leadership and country, and is treated along with fleeing the country as a high ranking offense for North Koreans.\(^4\) While seeking refugee status in China the North Koreans are granted no rights, no citizenship, and are ultimately stripped of anyway to protect themselves. A common theme with North Korean refugees living in China is the thought that they will be ripped away and sent back to North Korea at any moment to face punishment.

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\(^3\) Ibid.
\(^3\) Bureau of Exit and Entry Administration of the Ministry of Public Security. “Order of the President of the People’s Republic of China No. 57” http://www.mps.gov.cn/n16/n84147/n84196/3837042.html
\(^4\) Ibid.
Since the bulk majority of North Korean refugees are women there is a special dynamic to this refugee crisis. Around 90% of the North Korean women that cross into China looking for a way out of North Korea find themselves thrust into the human trafficking rings that crisscross China. A scarcity of women in China also makes the North Korean women targets for forced marriages in which domestic abuse, rape, and even repatriation to North Korea are ever present threats. Repatriated women who had gotten pregnant with a Chinese child faced particular brutal treatment upon their return to Korea. The North Korean guards would often beat the pregnant women, yell slurs at them, and condemn them for corrupting themselves by producing offspring with a Chinese man. These situations have been prevalent between China and North Korea for some time, and it is now that the UNHCR should start looking for a real solution to the crisis that has so long eluded a solution.

Since the UNHCR’s new goal has been that of promoting human rights in countries with significant refugee problems, it is important to understand how the UNHCR got to that point. As previously examined, during the Cold War the UNHCR was able to vastly expand, and its role ultimately changed. In China, however, the UNHCR still falls short of achieving its goals. Forced to bow to China’s wishes so that it may protect at least some refugees, the UNHCR cannot declare North Korean’s fleeing their homeland as refugees in China. China, having no laws that grant North Korean’s refugee status, is then allowed to abuse the rights of North Koreans, most notably by forceful repatriation. To understand China’s choice in the situation, it is important to first understand the relationship between China and North Korea. For decades,

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43 Ibid.

China has stood by its fellow communist country, promoting its interests and protecting its choices, even if they are questionable. Although in recent years their relationship has become frosty due to the succession of Kim Jung Un into the head position of the North Korean government and Xi Jinping into the head position of the Chinese government, it is evident that China is not willing to completely abandon its ally just yet.\(^45\)

Being the major power in the relationship, China does not benefit from being North Korea’s ally on the global scale. In fact, China generally has to “pay the price for North Korea’s inappropriate and unacceptable behavior.”\(^46\) In the global realm, China faces extreme criticism for aiding the North Korean regime that openly pursues nuclear weapons development, starves its own people, and practices human rights abuses that make China pale in comparison. Due to an expanding US/China relationship and the expansion of Chinese influence abroad, it is evident why over the past couple years that China has begun to distance itself from North Korea. Although claims of a thaw in North Korean/Chinese relations have been made, it would be interesting to see how Chinese refugee law develops over the next few years.\(^47\) Likely, if the relationship is to evaporate or weaken strongly, China would be inclined to be more accepting and protecting of North Korean refugees. The reluctance to open the country up to a massive influx of refugees would still be a likely issue. After all, China is still looking out for its own interests in the global market before it looks out for others.

Under international law and the UNHCR mandate, which China is a signatory of and a member of the executive committee, North Koreans are deemed refugees under the mandates of

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\(^46\) Ibid.

UNHCR and therefore require protection and cannot be forcefully sent back to their home country.\textsuperscript{48} Unfortunately, the loophole system, which allows countries to determine the status of refugees and to refuse refugees entrance, is prevalent in the UNHCR prevents China from being forced into submitting to increasing public opinion denouncing its actions against North Korean refugees. China’s current tactic includes claiming North Koreans are economic refugees, and therefore do not fall under the classification of refugee stipulated in the 1951 mandate for the UNHCR.\textsuperscript{49} Although it is clear that the North Koreans are facing greater difficulties than just economic ones, China still stands by this claim of legitimacy for its actions against the North Korean refugees.

\textbf{Powerful States Get What They Want}

As many countries look on and are unable or unwilling to help, the UNHCR must attempt “to assist States in shaping responses that balance concerns for border migration control with the protection of asylum-seekers’ rights.”\textsuperscript{50} In China, the UNHCR balances on a tightrope of maintaining state approval so that it can help all of those the state allows it to help, while ignoring the pleas of North Koreans desperately trying to find asylum in a country that will not forcefully repatriate them back to their homeland where they face torture, death, or imprisonment. The UNHCR seeks to diminish policies that restrict the rights of refugees but in China, it is faced with the age old problem of geopolitics.\textsuperscript{51} Even though the UNHCR makes recommendations to the states and issues investigation reports, the Security Council, headed by

\textsuperscript{51} Ibid.
countries like China, the United States, and other powerful nations are more than capable of ignoring or condemning the reports in some cases.

Since the 1951 UN Refugee convention, the UNHCR has been responsible for assisting a number of refugees all over the globe. The responsibilities of the UNHCR staff vary by location, but ultimately their goal is to assist refugees living within countries that the UNHCR is operating in. Some of the assistance the UNHCR provides includes assistance with refugee registration in the host country, but does not stop there. Refugees must often wait for confirmation status that they are accepted as refugees and in the meantime the UNHCR workers must help set up a system to provide food and shelter for the refugees. Since most countries refuse to allow refugees to take jobs, refugees are often forced to sit idly by as they wait for news on their resettlement status. Many often complain about this, because most countries see refugees as a burden and if the refugees were allowed to take jobs and make an income, it is likely that they could provide for themselves and be less of a burden on the host countries economy. Unfortunately, this usually faces intense opposition from citizens who would be then competing for those same jobs. It is also the responsibility of the UNHCR to determine where the refugees would like to be resettled as well as try to facilitate that process. Many wait years simply for the issues that caused them to flee their country to dissipate. This is always the ideal goal of the UNHCR, as they prefer to reintegrate refugees back into their own society rather than introduce them into a new one. Reintegration into foreign societies can be extremely difficult, especially if the societies are rather homogenous and are opposed to the introduction of outside cultures as they feel it might affect their national identity. This is a clear issue now in Europe with the

Syrian refugee crisis as many Muslim refugees flee to predominately Christian countries, their leaders argue this will have outstanding effect on the culture of the countries that decide to take these refugees in. This issue is luckily highly avoidable in the North Korean refugee crisis most of the time, because many North Koreans desire to relocate to South Korea where they share the same culture and language.

Unfortunately this seemingly easy solution is marred by the Chinese government that interferes with the operations of the UNHCR. It may seem benign simply not allowing North Korean refugees in China to go to the UNHCR office, but it keeps valuable and essential resources out of the hands of the North Korean refugees. They are not given access to easier routes to relocation, and they are even more restricted in their right than other refugees living within China that are allowed to be assisted by the UNHCR. Although the process is difficult and sometimes almost impossible for many refugees it becomes twice as difficult and many times more dangerous for the North Korean refugees in China who must look at several more dangerous routes to safety. Whether they are seeking to relocate to a Western country, South Korea, or even Southeast Asian countries like Thailand, they face many obstacles. The Western countries like the United States put up multiple barriers in the form of paperwork, refugee limits, refugee requirements, documentation, and language requirements that further make it difficult for refugee, and the North Koreans are given no intermediary assistance as they are refused help from the UNHCR by the Chinese government. South Korea may offer an easier path to citizenship for the North Korean refugees, but the difficult part is the North Koreans would have to be able to reach South Korea which is exponentially dangerous when they have no rights or assistance in China. Many must often travel in unlawful ways endangering their own welfare to try to get out of China. Since most North Korean refugees in China are women this puts them in
extreme danger of being forced into the sex trade while they search for a way to South Korea.\textsuperscript{54} If China simply allowed the UNHCR to offer a hand to the North Koreans it would make the process safer and quicker.

This would yet again be very unlikely, because for every North Korean refugee that China assists, more would come hoping to seek a better life if they knew China would allow them to search for it easily there. China is not willing to risk opening the flood gates of this refugee crisis just as much as they are not willing to fully condemn the actions of North Korean leader Kim Jung Un that encourage these refugees to flee.

China not only limits the operations of the UNHCR but renders the UNHCR completely useless when it comes to dealing with the North Korean Refugee problem. From Beijing the UNHCR staff can be closer to the source of the issue, and begin to gain the trust of the Chinese government but there is something blocking progress. While China idly stands by and protects North Korea’s right to abuse its people, China will continue to prevent North Korean refugees within its borders from getting their proper rights. Not until China benefits from the change will North Korean refugees ever find safe asylum within Chinese borders. This is unlikely to occur unless the countries of the United Nations demand that China disavow North Korean actions and they demand that China allow the UNHCR to do its job. It would take a lot of convincing to get this to happen though, because China is such a huge trading partner with the entire world. The United States might condemn China in words, but on paper it needs trade with China just as much as China needs trade with the United States and if one or the other would move to block this it would be hard to guess what the outcome would be. It is a power struggle in the end, just

like everything within the United Nations. Strong nations are able to throw their weight around and get what they want without losing status and without being controlled. If these nations were truly interested in preserving the rights of refugees like it states in the 1951 convention on refugees than they would have used this power to protect refugees already. It is more and more evident every day that the creation of the UNHCR was done for the benefit of countries who wanted to stem the refugee crisis of the world for their own benefit and not for the benefit of the refugees themselves.

With documented evidence that North Koreans are abused in their homeland it seems impossible to understand how China could feel they must repatriate North Koreans. All of this stems from the one thing that has dominated the refugee crisis since the creation of the UNHCR, and that is politics. In the earliest days of the UNHCR’s creation, it was clear that major actors like the United States would put pressure on insuring the limitations of the UNHCR. The only point at which the United States wholeheartedly supported the UNHCR cause was when they could manipulate it to meet the political ends of the Cold War era. Although the purpose and mission of the UNHCR has rapidly grown over the years, it did so only under the power and direction of major states that willed it to. There is no autonomy in the UNHCR; it is dependent on the power of states and their political goals. Not only China, but other Perm Five members of the Security Council are responsible for manipulating the UNHCR and inhibiting its abilities to function to benefit their own agendas politically. In further research, it might be beneficial to expand the parameters of research and examine more case studies and a greater depth of UNHCR actions. By expanding research into the European region, the refugee crisis in China might be able to shed some light on possible outcomes for the growing migrant crisis in Europe.
Policies are likely to be shaped by similar major powers and influential states that would like to shape UNHCR mandates to fit their own political needs as well.
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