



KoreaFuture

TONGIL MOM



Submission to the Special Rapporteur on Trafficking in Persons, especially Women and Children

In Response to the Call for Input on Trafficking in Persons and Protection of Refugees, Stateless Persons and Internally Displaced Persons (IDPs)

**Submitted to:** [ohchr-srtrafficking@un.org](mailto:ohchr-srtrafficking@un.org)

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Dear Special Rapporteur Ms. Siobhán Mullaly,

The undersigned organizations are grateful for the opportunity to provide input to your report to the 53th session of the United Nations Human Rights Council in June 2023, dedicated to the access to international protection of victims of trafficking in persons or persons at risk of trafficking.

Our work<sup>1</sup> is dedicated to documenting, increasing awareness, and accelerating justice for persons affected by serious human rights violations in the Democratic People's Republic of Korea ("DPRK" or "North Korea") and, as illustrated by this submission, in the course of seeking refuge from persecution.

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<sup>1</sup> Korea Future: <https://www.koreafuture.org/>, Tongil Mom Association: <http://tongilmom.com/eng/TongilmomStory>, North Korean Strategy Center: <https://nkscen.bxd.solutions/1502946305> and NK Watch: <http://www.nkwatch.org/?lang=en>. This submission was supported by the collaboration between Korea Future and the Center for Justice and Accountability: <https://cja.org/>.

We note the Special Rapporteur's enhanced focus on the international human rights violation and transnational crime of trafficking as committed against women and children.<sup>2</sup> It is for this reason that we would like to direct your attention to the situation of North Korean asylum-seeking persons, disproportionately women and girls who, in the context of their flight from North Korea to China, have become victims of trafficking. Instead of receiving international protection as required by the 1951 Convention Relating to the Status of Refugees ("Refugee Convention") due to a "well-founded fear of persecution" in their country of origin<sup>3</sup>, North Korean asylum-seeking women and girls become vulnerable to trafficking exploitation as well as violations of non-derogable international human rights, such as the slave trade and slavery through which their exploitation occurs.<sup>4</sup> While in China, North Korean asylum-seeking women and girls are neither afforded refugee protection nor granted any formal status.<sup>5</sup>

This submission will address in three parts how the situation of North Korean asylum-seeking women and girls, who have and continue to experience multiple, ongoing serious human rights violations during their defection, sits at the very intersection of the thematic focus your report to the 53th session of the Human Rights Council:

1. Trafficking in North Korean asylum-seeking women and girls and the nexus with the definition of a refugee in international law
2. Lack of international protection for North Korean women and girls in China

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<sup>2</sup> The structural drivers of violence on gender grounds affect persons of diverse gender identities and sexual orientation in distinct ways. However, the trafficking experience of these communities has thus far been entirely undocumented.

<sup>3</sup> UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, at 137. The definition of a "refugee" under the Convention extends to individuals who have a well-founded fear of persecution based on race, religion, nationality, membership in a particular social group, or political opinion.

<sup>4</sup> Article 3 a UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000; League of Nations, *Convention to Suppress the Slave Trade and Slavery*, 25 September 1926, 60 LNTS 253, Registered No. 1414; UN Economic and Social Council (ECOSOC), *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, 7 September 1956.

<sup>5</sup> Rights for Female North Korean Defectors (RFNK), *I Want to Hold My Child: Human Rights Report for Forced Repatriation of Female North Korean Defectors* (2022) ("RFNK Report") at 82, available at [http://tongilmom.com/board\\_fgZno3/2736](http://tongilmom.com/board_fgZno3/2736).

### 3. Forced repatriation of trafficked North Korean asylum-seeking women and girls in violation of non-refoulement obligations

While the lack of international protection of North Korean asylum-seeking women and girls in China has not received adequate international attention, including by relevant Special Procedures mandate holders, we hope that our submission will encourage engagement with the undersigned organizations, our work, and our networks. We remain available for any follow-up conversation and to provide further information to your office.

#### **1. Trafficking in asylum-seeking North Korean women and girls and the nexus with the definition of a refugee in international law**

The undersigned organizations recognize that not all victims of trafficking will qualify for refugee status under the Refugee Convention or respective regional refugee instruments. UNHCR's Guidelines on International Protection No. 7<sup>6</sup> set out the circumstances under which the Refugee Convention definition of refugee applies to victims of trafficking, including victims who have been trafficked abroad seeking international protection in the State in which they are currently present.

According to Article 1(A) of the Refugee Convention, victims of trafficking or persons at risk of being trafficked are refugees if they have a well-founded fear of persecution in their country of origin where the State is unable or unwilling to protect them or in the State in which they are currently located. Additionally, the Guidance Note on the Entitlement of Victims of Trafficking and Persons at Risk of Being Trafficked to International Protection outlines that “people who have been trafficked, or who are at risk of being trafficked in the future, may have an entitlement to international protection in a State of which they are not a citizen or permanent resident. The entitlement to international protection arises because of a serious risk to the life or fundamental rights of any person who is outside the State of their citizenship or country of former habitual residence, or any State where they possess the rights and

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<sup>6</sup> Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons at Risk of Being Trafficked, available at <https://www.unhcr.org/publications/legal/443b626b2/guidelines-international-protection-7-application-article-1a2-1951-convention.html>.

obligations attached to the possession of nationality of that State, should that person be compelled to return to that State”.<sup>7</sup>

In the context of trafficking experienced by North Korean asylum-seeking women and girls in China, the persecution experienced is the exploitation by means of slave trade and slavery, where sexual violence is committed on grounds of nationality, gender and political status as illegalized persons.<sup>8</sup> Exploitation is further fueled by the economic gain of organized crime networks engaged in trafficking<sup>9</sup>.

## **2. Lack of international protection for North Korean women and girls in China**

North Korean women and girls who have escaped to China are treated as illegalized persons rather than being granted international protection as refugees.<sup>10</sup> Upon arrival in China, there is no individual assessment by relevant authorities of whether North Korean asylum-seeking women and girls are subject to a well-founded fear of persecution. The flight from North Korea for asylum-seeking women and girls results in de-facto slave trading, enslavement and trafficking through brokers over the North Korean-Chinese border and from there, throughout China.

Trafficking of individuals seeking to escape human rights abuses in North Korea is well documented.<sup>11</sup> Through broker networks, North Korean asylum-seeking women and girls are trafficked throughout the country or kept in border regions. Cyber sex

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<sup>7</sup> Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection, available at <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>.

<sup>8</sup> See for example: <https://www.reuters.com/article/us-northkorea-china-sex-slavery-idUSKCN1SQ105>, <https://www.bbc.com/news/world-asia-48340210> and <https://www.forbes.com/sites/ewelinaochab/2019/07/01/trafficking-of-north-korean-women-in-china/?sh=3109f2987afo>.

<sup>9</sup> Lee Won Hee, “Human Trafficking Channels of North Korean Exile Women” (21 August 2020), available at [https://www.rfa.org/korean/weekly\\_program/woman\\_era/women-era-08202020101203.html](https://www.rfa.org/korean/weekly_program/woman_era/women-era-08202020101203.html)

<sup>10</sup> RFNK Report at 99.

<sup>11</sup> 2022 Trafficking in Persons Report: North Korea (“2022 US State Department Report”), available at <https://www.state.gov/reports/2022-trafficking-in-persons-report/north-korea>.

crimes<sup>12</sup> and sexual violence<sup>13</sup> in the context of slave trading, enslavement, and trafficking is prevalent. For example, there are reports of women and girls being traded, enslaved, and trafficked multiple times by different brokers into different Chinese “families” where they are gang-raped by men in the “family”. Other reports speak of situations of de-facto domestic servitude enslavement. Women and girls depend on “husbands” to avoid forced repatriation by China .

Many North Korean asylum-seeking women and girls live in China without any regularized status, let alone international protection under the Refugee Convention. Instead, they are issued so-called “temporary residence permits” by local public security agencies, which ostensibly provide them with some identification to allow for limited ability to travel locally. In reality, these permits are “part of a management policy to control North Korean defectors by region” and facilitate even greater surveillance of vulnerable North Korean asylum-seeking women and girls.<sup>14</sup>

### **3. Forced repatriation of trafficked North Korean asylum-seeking women and girls in violation of non-refoulement obligations**

The undersigned organizations seek to specifically bring to your attention Chinese government conduct that enables trafficking and the operation of slave trading networks of North Korean asylum-seeking women and girls. China engages in forced repatriation of North Koreans found within its borders<sup>15</sup>, pursuant to two agreements between China and the DPRK: the 1960 “Mutual Cooperation Protocol for Escaped Criminal Reciprocal Extradition Treaty” and the 1986 “Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order in the Border Areas”.<sup>16</sup> North Koreans who have escaped to China have little to no opportunity to seek asylum

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<sup>12</sup> Yoon Hee-soon, *Sex Slave: The Prostitution, Cybersex & Forced Marriage of North Korean Women & Girls in China*. London: Korea Future Initiative (2019), available at:

<https://prostitutionresearch.com/trafficking-north-korean-women-to-china-2019/>

<sup>13</sup> Yeon Sung Jin, *An Exploratory Study of North Korean Defectors' Human Trafficking Victimization en route to South Korea*, Seoul: Korean Institute of Criminology (2018).

<sup>14</sup> RFNK Report at 92.

<sup>15</sup> Yoon Soo Hee, "Anything but Refoulement", KBS News (5 March 2012), available at

<https://news.kbs.co.kr/news/view.do?ncd=2445206>; Jeong Rak In, "100,000 North Korean Defectors

Stranded in China", Sisa Journal (5 March 2012), available at

<https://www.sisajournal.com/news/articleView.html?idxno=134265>.

<sup>16</sup> RFNK Report at 99.

or international protection under the Refugee Convention. A significant number are forcibly repatriated either at the request of the North Korean government or at the discretion of Chinese officials, in violation of non-refoulement obligations.<sup>17</sup> Following the outbreak of the COVID-19 pandemic and the closing of the Chinese-North Korean border, Chinese authorities temporarily paused the refoulement of North Korean refugees. However, North Koreans with irregularized status in China continued to be arrested, detained, and interrogated.<sup>18</sup> As the U.S. Department of State noted in its most recent report on trafficking in North Korea, “if found by [Chinese] authorities, trafficking victims are often forcibly returned to the DPRK, where they are subject to harsh punishment, including forced labor in labor camps, torture, forced abortions, or death.”<sup>19</sup> The constant threat of refoulement further heightens the vulnerability of North Korean asylum-seeking women and girls to trafficking and exploitation through slavery and sexual violence.

The impact of forced repatriations for trafficking victims is profound. In addition to punishment by the North Korean government, women refouled to North Korea are often separated from their Chinese-born children.<sup>20</sup> Even the threat of repatriation has been documented to have a significant negative impact on the children of North Korean women living in China: “While mothers in China are constantly threatened with repatriation, their children feel separation anxiety and worry that their mothers may leave them.”<sup>21</sup>

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We hope this submission begins to highlight the plight of North Korean asylum-seeking women and girls in China. They become victims of trafficking because China is violating its obligations under international law, including international refugee law and international customary law. The work of human rights documentation, advocacy, and psycho-social support actors in South Korea, where

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<sup>17</sup> *Id.* at 74 to 75.

<sup>18</sup> *Id.* at 76.

<sup>19</sup> 2022 US State Department Report.

<sup>20</sup> RFNK Report at 62 (“One of the most significant difficulties [women] North Korean defectors face is separation from their children ... Such separation adds to psychological difficulties for both mother and children.”)

<sup>21</sup> *Id.*

Korea Future, North Korea Strategy Center, NK Watch, and Tongil Mom Association are based, underlines the urgent need to support and recognize the multiple and continuing human rights violations experienced by North Korean women and girls, beginning with harms in North Korea to violations taking place in China.

We remain available to provide any additional information, clarification, or analysis. Thank you again for the opportunity to contribute to your report to the 53rd session of the United Nations Human Rights Council.

On behalf of the undersigned organizations,

Hae Ju Kang  
Co-Director, Korea Future  
[kang@koreafuture.org](mailto:kang@koreafuture.org)

Suyeon Yoo  
Co-Director, Korea Future  
[yoo@koreafuture.org](mailto:yoo@koreafuture.org)

Korea Future  
Tongil Mom Association  
North Korea Strategy Center  
NK Watch  
&  
Center for Justice and Accountability