

CHAPTER V

CONCLUSION

Many North Koreans seek refuge in China for political, ideological, and religious reasons. Others leave to escape DPRK's inhumane harsh persecution. China, a party to UNHCR's Convention and Protocol, does not implement its obligations and responsibilities in providing protection and assistance towards North Korean refugees. The writer formulated this research with the question "How does the United Nations High Commissioner for Refugees (UNHCR) address issues related to the North Koreans refugees crisis in China."

UNHCR faces five main challenges in addressing North Korean refugee issues namely China's perception on North Korean asylum seekers as economic migrants, the prohibition to enter Chinese-North Korean border, forced repatriation of North Korean refugees, China's lack of refugee status determination procedure, and China's lack of commitments, obligations, and responsibilities towards UNHCR's provisions.

In accordance with Arreguin-Toft and Mingst's roles and Karns, Mingst and Stiles' functions of international organizations, UNHCR managed to facilitate the resettlement of North Koreans to South Korea and constantly protesting China not to repatriate them. North Korean asylum seekers' human security continues to be protected through various means, such as creating discussions with China regarding the North Korean refugee issue and also encouraging China to improve its treatment to North Korean asylum seekers.

Two crucial factors indeed restrain China. The first is by its interests with North Korea. China is the closest state to North Korea in terms of territory and relations. China's most important interest in North Korea is political stability. North Korean asylum seekers for China are mediums or political exchanges with North Korean government. China holding North Korea's asylum seekers is a cunning move to manipulate North Korea in influencing its decision-making process. The most visible example is with its nuclear missiles test. North Korea is often deterred by China when it comes to nuclear affairs. North Korea must notify China before testing its nuclear missiles because if North Korea violates this, China can hold its asylum seekers and also carry out economic detention or economic sanctions. This act makes North Korea very dependent on China.

China does not want a more straightforward procedure for North Korean asylum seekers to obtain refugee status following the provisions of the UNHCR because they do not want a mass influx coming from North Korea to China. China is unable to accommodate massive influxes of refugees because they fear the collapse of the Kim regime, which has sustained the government in North Korea for decades. If the North Korean government collapses, the most likely event to happen is North Korea's reunification with South Korea. South Korea is an ally to the United States, and the United States has the largest military base in the city of Pyeongtaek, South Korea (largest base outside of the United States). If this happens, political stability in East Asia will be disrupted, and China will no longer hold the most significant power there.

The next important factor is international pressure. The international world often pressures China regarding its humanitarian affairs, one of which is the issue

of North Korean refugees. Currently, China has its policy with how they determine and give treatment to North Korean asylum seekers, that is, by considering them as economic migrants and forcibly repatriating them. However, this policy cannot always be carried out by China in cases where North Korean asylum seekers search refuge in the UNHCR Office, different embassies, or consulates, and also in foreign international schools located in Beijing. These cases weaken China in the eyes of North Korea and the eyes of the international world because such cases are easier to cover by international journalists such as the AP Archive. UNHCR, the different government of embassies, consulates, or schools visited by North Korean asylum seekers, have a role in helping to save these asylum seekers out of China and headed for the country of their choice, namely South Korea.

With intense pressure from the international world, China is unable but to comply with UNHCR. In cases like this, China allows them to resettle in South Korea on condition that Chinese authorities must record the asylum seekers' identifications and that they had to transit to a third country like the Philippines.

UNHCR aims to guarantee that everyone has the right to seek asylum and find a safe place in another state, including North Korean asylum seekers. The principle of *non-refoulement* stated in Article 33 applies to North Korean escapees. It bans China from repatriating them to North Korean authorities that will torture them. China cannot return North Koreans because the customary international law principle of *non-refoulement* substitutes its policy and domestic law.

The argument that North Korean asylum seekers are economic migrants is false. UNHCR's definition of an economic migrant is "a person who voluntarily

leaves one's country exclusively for economic reasons and not because of persecution.” The UNHCR has claimed them to be refugees if the fundamental economic measures that cause an individual to leave the country result from a racial, political or religious reason of the origin's state and a *sur place* refugee if the action of leaving the country can cause the person to face harsh imprisonment or persecution. Those two requirements apply to North Korean asylum seekers' conditions and situations. Therefore, China's act fails to obey UNHCR's provisions, which compels China to coordinate with the UNHCR and assist UNHCR's functions.

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