



Parahyangan Catholic University
Faculty of Social and Political Science
Department of International Relations

Accredited A

SK BAN-PT NO. 3095/SK/BAN-PT/Akred/S/VIII/2019

**UNHCR's Efforts in Addressing Issues Related to the
North Korean Refugees Crisis in China**

Undergraduate Thesis

By
Aisyah Khairunnisa
2016330167

Bandung
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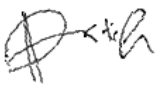


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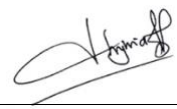
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Hereby asserts that this thesis is the product of my own work, and any other parties have not previously proposed it in order to attain an academic degree. Any idea and information gained from other parties are officially cited in accordance with the valid scientific writing method.

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Bandung, July 14, 2020,



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ABSTRACT

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Title : UNHCR's Efforts in Addressing Issues Related to the North Korean Refugees Crisis in China

North Korean asylum seekers are repatriated every week from China without obtaining UNHCR's refugee status determination procedure that they deserve because China does not implement its obligations and responsibilities in providing protection and assistance. 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." To discuss UNHCR's efforts, the writer uses Karen A. Mingst, Kendall W. Stiles, and Margaret P. Karns' international organization functions, Ivan M. Arreguin-Toft and Karen A. Mingst's international organization roles, with Brendan Howe's human security and George Kent's humanitarian responsibility and obligations as the concepts.

North Koreans who escape and seek protection in China experience substantial distress, this matter is a humanitarian issue that UNHCR must handle. UNHCR finds many difficult challenges that are caused by China throughout addressing North Korean refugee issues. Nevertheless, UNHCR exercises its international organization functions, as written in Karns, Mingst and Stiles' book. UNHCR is informational in terms of collecting North Korean asylum seekers' data whose resettlement was successfully assisted by UNHCR, and it publishes press releases, news, and briefing notes on its official website. A forum for its member states or between the organization and a member state to discuss notions, problems, and solutions related to North Korean refugee issues. Normative as it creates Convention, Protocol, and Principle concerning refugees protection and assistance. It creates rules in managing refugee affairs and monitors states on the implementation of its Provisions. Operational in terms of allocating states' financial contributions in providing humanitarian protection and assistance. Lastly, idea generation by making draft on the rules for identification and administration of refugees with the Chinese government.

Keywords : UNHCR, North Korean Refugees, China

ABSTRAK

Nama : Aisyah Khairunnisa

NPM : 2016330167

Judul : Upaya United Nations High Commissioner for Refugees (UNHCR) Dalam Menangani Permasalahan Terkait Krisis Pengungsi Korea Utara di China

Pencari suaka Korea Utara dipulangkan setiap minggunya dari China tanpa mendapatkan prosedur penentuan status pengungsi UNHCR yang layak mereka dapatkan. Hal ini disebabkan oleh China yang tidak melaksanakan kewajiban dan tanggung jawabnya dalam memberikan perlindungan dan bantuan terhadap pencari suaka. Pertanyaan penelitian yang diajukan adalah "Bagaimana upaya United Nations High Commissioner for Refugees (UNHCR) dalam menangani permasalahan terkait krisis pengungsi Korea Utara di China." Untuk membahas upaya UNHCR secara komprehensif, penulis menggunakan fungsi organisasi internasional Karen A. Mingst, Kendall W. Stiles, dan Margaret P. Karns, peran organisasi internasional Ivan M. Arreguin-Toft dan Karen A. Mingst serta *human security* Brendan Howe dan *humanitarian responsibility and obligations* George Kent sebagai konsepnya.

Pencari suaka Korea Utara yang melarikan diri untuk mencari perlindungan di China mengalami banyak kesulitan, masalah kemanusiaan ini harus ditangani oleh UNHCR. Dalam penanganannya, UNHCR menemukan banyak tantangan yang disebabkan oleh China. Meskipun demikian, UNHCR tetap menjalankan fungsi organisasi internasional yang merujuk pada buku Karns, Mingst dan Stiles. UNHCR menjalankan fungsi informasi dengan mengumpulkan data pencari suaka Korea Utara yang pemukiman kembalinya berhasil dibantu oleh UNHCR, dan mempublikasikan hasil dari jumpa pers, berita, dan catatan singkat di situs resminya. UNHCR memiliki fungsi forum untuk negara-negara anggotanya atau antara organisasi dan negara anggota untuk membahas gagasan, masalah, dan solusi yang berkaitan dengan masalah pengungsi Korea Utara. UNHCR memiliki fungsi normatif karena menciptakan Konvensi, Protokol, dan Prinsip *Non-Refoulement* mengenai perlindungan dan pemberian bantuan terhadap pengungsi. UNHCR menciptakan aturan dalam mengelola urusan pengungsi serta memantau negara anggota dalam implementasi peraturannya. UNHCR memiliki fungsi operasional dengan mengalokasikan kontribusi keuangan dari negara untuk memberikan perlindungan dan bantuan kemanusiaan terhadap pengungsi serta fungsi yang terakhir yaitu generasi ide dengan membuat rancangan aturan untuk identifikasi dan administrasi pengungsi dengan pemerintah China.

Kata kunci : UNHCR, Pengungsi Korea Utara, China

FOREWORD

This undergraduate thesis is the final work of the writer's Bachelor study at Parahyangan Catholic University of International Relations major. The thesis with the title of **“UNHCR's Efforts in Addressing Issues Related to the North Korean Refugees Crisis in China”** has come to completion.

The writer aims to explain the efforts of UNHCR, as an international organization with the mandate of concerning refugees, to address issues related to the North Korean Refugees Crisis in China and how it faces difficult challenges during the process. The focus of analysis explains how different China's implementation and practice with UNHCR's Convention and Protocol and continue with how UNHCR overcomes these problems despite the many challenges that the Chinese government enforces. South Korea also plays an important role in accepting North Korean refugees and providing resettlement, which facilitated by UNHCR.

The writer acknowledges that this research is far from perfect and therefore, would sincerely apologize should there be any error, inaccuracy, and misinterpretation within this research.

Bandung, July 14, 2020

Aisyah Khairunnisa

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Foremost, I would like to give gratitude and praise to the One Almighty God for giving me His blessings and fluency throughout completing this undergraduate thesis successfully.

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To the love of my life, **Prayogo Ramadhan**, I would like to express my heartfelt gratitude towards you my dearest partner and best friend who listens to my grievance, distressed, anger, and sorrow, who encourages me to improve as a human being, who supports my back when I'm in trouble and who gives comfort and serenity when I have panic attacks or in a depressed state. I honestly would not be here today without you. I'm excited about what we're planning for the future. Let's get married in November 2020!

Grateful acknowledgment to my **best friends Aina and Baginda**, who always give their support mentally and physically, not just during the work of this thesis but also in all things in life. I'm glad to have you as my best friend.

I would like to express my sincere gratitude to my advisor, **Mbak Sylvia Yazid, S.IP., MPPM., Ph.D.**, for providing invaluable guidance throughout this research. It was a great privilege and honor to study under her guidance. I'm incredibly grateful for what she has offered me.

To **Fazza, Ghandur, Grace, Jus, Lala, Nia, Puput, Rivan**, who hang out with me a lot during my study in Bandung. Doing the project was one of the best timelines in my life! I also would not survive 4 years of my study if I didn't hang out with the three of you!

Lastly to **myself**, 고생많았어 세이야! Self-love and appreciation is a must.

Remember how many times you had cried and had tough days, all of those days have led to today! This is the start of your adult life, you're going to have many tough days in front of you, but you're also going to have better days where you're happy. Remember not to be so hard on yourself! I believe you can achieve your dream and peace that you've always wanted. Don't get sick, and remember to always take care of yourself!

TABLE OF CONTENTS

ABSTRACT	i
ABSTRAK	ii
FOREWORD	iii
ACKNOWLEDGEMENTS	iv
TABLE OF CONTENTS	vi
LIST OF ABBREVIATIONS	ix
CHAPTER I: INTRODUCTION	1
1.1 Background	1
1.2 Research Problem Identification	3
1.2.1 Research Problem Description	3
1.2.2 Research Focus	5
1.2.3 Research Question	6
1.3 The Aim and Benefit of the Research	6
1.3.1 The Aim of the Research	6
1.3.2 The Benefit of the Research	6
1.4 Literature Review	6
1.5 Theoretical Framework	12
1.6 Research Method and Data Collection Technique.....	18
1.6.1 Research Method	18
1.6.2 Data Collection Technique	18
1.7 Research Structure	18
CHAPTER II: THE EMERGENCE OF NORTH KOREAN REFUGEES CRISIS IN CHINA	21
2.1 The Background of North Korean Refugee Crisis in China	21
2.1.1 Migration History between China and North Korea	22

2.1.2 Motivations to Escape North Korea	24
2.2 The Conditions of North Korean Refugees in China.....	28
2.2.1 Physical Conditions of North Korean Refugees.....	28
2.2.2 Psychological Conditions of North Korean Refugees.....	31
2.3 Chinese Government's Response Towards North Korean Refugees Crisis	33
2.3.1 Policies Made by the Chinese Government in Relation to North Korean Refugees Crisis	33
2.3.2 Implementation of the Policies Related to North Korean Refugees Crisis	35
CHAPTER III: UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) AS A GLOBAL INSTITUTION WITH THE MANDATE OF PROTECTING REFUGEES	40
3.1 Background of the Establishment	41
3.2 United Nations High Commissioner for Refugees' (UNHCR) Roles and Functions	43
3.2.1 United Nations High Commissioner for Refugees' (UNHCR) Roles	43
3.2.2 United Nations High Commissioner for Refugees' (UNHCR) Functions	45
3.3 United Nations High Commissioner for Refugees' (UNHCR) in China	52
3.3.1 The Establishment of UNHCR's Office in China.....	52
3.3.2 United Nations High Commissioner for Refugees' (UNHCR) Main Activities with China.....	53
3.4 Challenges in Addressing Issues Related to the North Korean Refugees Issue in China	56
CHAPTER IV: UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES' (UNHCR) EFFORTS TO ADDRESS ISSUES RELATED TO THE NORTH KOREAN REFUGEE CRISIS IN CHINA.....	61
4.1 Determining North Korean Refugees Status.....	61
4.1.1 Chinese Government's Policy Towards North Korean Asylum Seekers .	61

4.1.2 Conducting UNHCR's Refugee Status Determination Procedures on North Korean Escapees in China	69
4.2 Responding to Cases Related to North Korean Refugees	79
4.2.1 Facilitating the Resettlement of North Korean Refugees to South Korea via a Third Country	79
4.2.2 Preventing Refoulement of North Koreans by the Chinese Government	81
CHAPTER V: CONCLUSION	87
BIBLIOGRAPHY	91

LIST OF ABBREVIATIONS

DPRK	: Democratic People's Republic of Korea
PRC	: People's Republic of China
ROK	: Republic of Korea
RSD	: Refugee Status Determination
UNHCR	: United Nations High Commissioner for Refugees
USSR	: Union of Soviet Socialist Republic

CHAPTER I

INTRODUCTION

1.1 Background

North Korea started to face difficulties in the 1990s where famine occurred in the country, and this caused many North Koreans to seek asylum in China. The food crisis began with the disintegration of the Soviet Union in 1991. Previously, North Korea was economically dependent on the Union of Soviet Socialist Republics (USSR). This disintegration makes North Korea lost its economic relations strategy with the Soviet Union. The reduction of trade with the People's Republic of China (PRC) due to the increased cooperation between China and South Korea, the lack of economic infrastructure, failure in the agricultural sector, and the impoverished circumstances of North Korea's economy exacerbated the famine.¹

The North Korea famine is called "고난의 행군" (*gonaneui haeng-gun*) also known as Arduous March or The March of Suffering.² Out of a total population of 22 million, about 240,000 to 3,500,000 North Koreans die of hunger or hunger-related illnesses.³ The death rate caused by hunger is around 12 to 13 percent of the total population.⁴

¹ Andreas Schloenhardt and Elim Chan, North Korean Refugees and International Refugee Law 19, no. 2 (July 4, 2007), <https://doi.org/http://dx.doi.org/10.1093/ijrl/eem014>.

² Kang, David C. "They Think They're Normal: Enduring Questions and New Research on North Korea—A Review Essay" 36 (January 1, 2012): 142–71. <https://muse.jhu.edu/article/461858>.

³ Schwekendiek, Daniel, and Thomas Spoorenberg. "Demographic Changes in North Korea: 1993–2008," March 21, 2012, 133–58. <https://doi.org/> <https://doi.org/10.1111/j.1728-4457.2012.00475.x>.

⁴ Andreas Schloenhardt and Elim Chan, North Korean Refugees and International Refugee Law 19, no. 2 (July 4, 2007), <https://doi.org/http://dx.doi.org/10.1093/ijrl/eem014>.

To survive, thousands of starving North Koreans crossed the border into China intending to get food and have a better life. Due to the tremendous difficulties and dangers related to crossing the demilitarized zone or escaping via a direct sea route, the majority of North Korean escapees attempt to reach South Korea by crossing the border into China. They cross the Tumen River into Yanbian Korean Autonomous Prefecture or Amnok River, which divides North Korea and China and travel through a third country such as the Philippines, Laos or Thailand, to get to South Korea.⁵

Article 75 of North Korea's Constitution states that citizens may have the 'freedom to reside in and travel to any place.'⁶ On a different note, leaving the country without the possession of a valid travel certificate and permission from the authorities is considered a criminal offense under Articles 117 and 47 of the Criminal Code of North Korea.⁷ Article 117 provides that any person 'who crosses the border without permission shall be punished by a sentence of three years or less labor re-education.'⁸ Article 47 states that 'any person who escapes to another country or the enemy, is in betrayal of his motherland and people, or who commits treacherous acts towards the motherland such as espionage or treason, shall be punished by at least seven years or more labor re-education.'⁹ 'If it is a severe violation, one shall be punished by execution and forfeiture of all property.'¹⁰ These

⁵ Asian Boss. "What North Korean Defectors Think of North Korea | ASIAN BOSS." YouTube Video. 19:19. December 5, 2016. <https://www.youtube.com/watch?v=DyqUw0WYwoc&t=309s>.

⁶ Andreas Schloenhardt and Elim Chan, North Korean Refugees and International Refugee Law 19, no. 2 (July 4, 2007), <https://doi.org/http://dx.doi.org/10.1093/ijrl/eem014>.

⁷ UN Human Rights Committee, Concluding Observations of the Human Rights Committee: Democratic People's Republic of Korea, UN Doc CCPR/CO/72/PRC (2001).

⁸ Translation quoted in Human Rights Watch, "The Invisible Exodus," n. 6, 20. <https://www.hrw.org/reports/2002/northkorea/norkor1102.pdf>.

⁹ Ibid.

¹⁰ Ibid., 21.

laws violate the fundamental right to leave one own country, a right protected in both the Universal Declaration of Human Rights, Article 13(2), and the International Covenant on Civil and Political Rights, Article 12(2).¹¹

A sovereign country has an obligation to accept refugees; this follows the 1951 Refugee Convention, which is the key legal document that holds the basis of United Nations High Commissioner for Refugees' (UNHCR) work. One hundred forty-five state parties ratified the Convention, including China. The Convention defines the term 'refugee,' and it highlights the rights of the displaced, and also the legal obligations of the state to protect them.¹² The Convention has a core principle, namely the *non-refoulement* principle, which emphasizes that refugees should not be returned to a country where they deal with severe threats to their life or freedom, it is considered as a rule of customary international law.¹³ The 1967 Protocol widens the applicability of the 1951 Convention. The 1967 Protocol removes the geographical and time limits that were part of the 1951 Convention. These limits initially restricted the Convention to persons who became refugees due to events occurring in Europe before January 1, 1951. Here, the UNHCR serves as a guardian of the 1951 Convention and the 1967 Protocol. States need to cooperate with the UNHCR to ensure that the rights of refugees are respected and protected.¹⁴

1.2 Research Problem Identification

1.2.1 Research Problem Description

¹¹ Human Rights Watch, "The Invisible Exodus: North Koreans in the People's Republic of China" 14 (November 2002): p. 20.

¹² United Nations. "The 1951 Refugee Convention." UNHCR. Accessed September 6, 2019. <https://www.unhcr.org/1951-refugee-convention.html>.

¹³ Ibid.

¹⁴ Ibid.

China is a member state of UNHCR which means China has ratified UNHCR's 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. China's membership to the UNHCR binds China to follow UNHCR's Provisions. Furthermore, Article 32(2) of the Constitution of the People's Republic of China stated that 'The People's Republic of China (PRC) may grant asylum to foreigners who request it for political reasons'; this provides North Koreans to have the right to seek asylum from political persecution.¹⁵

Regardless of China's Constitution which indeed grants asylum to North Koreans because they flee due to political persecution, the UNHCR's Convention and Protocol which clearly identify that North Korean asylum-seekers are in fact qualify for refugee status, estimations of 300 North Koreans asylum-seekers are forcedly repatriated to North Korea each week without any access to UNHCR procedure. The Chinese government does not provide formal procedures to determine the North Korean asylum-seekers status. Thus, they do not receive the refugee status that they deserve and they have no adequate legal protection.¹⁶ This caused them to receive persecution and worse a death penalty once they are forcedly repatriated to North Korea.

On top of that, The Chinese government denies UNHCR any access to the border region of North Korea. China, who is close in relation and border to North Korea, regarded those coming from North Korea as illegal immigrants or economic

¹⁵ WIPO. "The Constitution Law of the People's Republic of China." The Constitution law of the People's Republic of China - WIPO. WIPO. Accessed September 6, 2019. <https://www.wipo.int/edocs/lexdocs/laws/en/cn/cn147en.pdf>.

¹⁶ Lord Hylton, Hansard Volume (House of Lords Debates), House of Lords vol. 660(70) (21 Apr. 2004), Column 304.

migrants and often compelled to return to North Korea to face punishment, which violates human rights. This violation endangers the lives of many North Koreans asylum seekers as those who are forcibly repatriated are interrogated by North Korea officials upon return and known to be tortured, imprisoned, and executed.¹⁷ Furthermore, pregnant women who are repatriated to North Korea from China are often forced into abortions or their infants killed upon birth for fear of foreign impregnation.¹⁸

Every asylum-seekers deserve to obtain a formal procedure in determining their refugee status, this includes North Koreans asylum-seekers but based on the explanation above, the Chinese government's treatments to North Korean Refugees clash with international refugee regulations that have been regulated by UNHCR. Therefore, from this research problem, the writer uses Howe's human security and Kent's humanitarian responsibility and obligations concepts to help address UNHCR's efforts on North Korean refugees issues in China as these issues are related to North Korean refugees human security and China's humanitarian responsibility and obligations towards UNHCR's provisions.

1.2.2 Research Focus

In this research, the writer limits research around North Korean refugees in China. The theme of this research is human rights with the United Nations High Commissioner for Refugees (UNHCR) as an international organization that plays an important role in helping North Korean refugees in China that deals with the

¹⁷ Andreas Schloenhardt and Elim Chan, *North Korean Refugees and International Refugee Law* 19, no. 2 (July 4, 2007), <https://doi.org/http://dx.doi.org/10.1093/ijrl/eem014>.

¹⁸ Lee Keum-soon. "Cross-Border Movement of North Korean Citizens." (2004). 16(1). *East Asian Review* 37 at 45-46.

forced repatriation of North Korean refugees. The time period of this research starts from 2000 to 2012 because UNHCR's efforts in responding to cases related to North Korean Refugees began in 2002 and the latest was in 2012.

1.2.3 Research Question

The writer formulated the research question as: **"How does the United Nations High Commissioner for Refugees (UNHCR) address issues related to the North Koreans refugees crisis in China."**

1.3 The Aim and Benefit of the Research

1.3.1 The Aim of the Research

To explain how the United Nations High Commissioner for Refugees (UNHCR) addresses issues related to the North Koreans refugee crisis in China. The writer identifies the challenges that the UNHCR faces regarding North Korean refugee crisis and the efforts that they have made.

1.3.2 The Benefit of the Research

The writer hopes this research study can provide insights and knowledge for other writers and for society regarding the role of the United Nations High Commissioner for Refugees (UNHCR) as an international institution in addressing issues related to the North Korean refugee crisis in China. The writer expects this research study to be used as a reference for other writers who are interested in writing the role of UNHCR or interested in the North Korea issue.

1.4 Literature Review

In compiling and reviewing the literature, the writer presents three literature studies, taken from some existing studies relating to the topic of this research in the form of two (2) international journal articles and an official document from United Nations High Commissioner for Refugees (UNHCR). This literature review aims to review the objectives of this research and to be more effective in describing research problems and hypotheses in research questions.

The first literature comes from the United Nations High Commissioner for Refugees' (UNHCR) official document with the title A Guide to International Refugee Protection and Building State Asylum Systems. It discusses details about refugees and their protection, and the first important point is the roles of UNHCR. The UNHCR is an additional organ of the United Nations General Assembly. It was established on January 1, 1951, to provide international protection for refugees and, together with the government, to find solutions to their suffering.¹⁹ The legal basis for the work of the UNHCR is its Statute. The Statute mandates UNHCR to encourage states to accept refugees into their territories and to access information from the government regarding the number and conditions of refugees, the laws and regulations of the state regarding refugees.²⁰

The content of the Statute explains that the work of UNHCR is entirely non-political, humanitarian, and social.²¹ UNHCR's mandate to provide protection consists of material assistance, which can often help enable a country to accept refugees because it alleviates some of the financial burdens. Effective legal

¹⁹ Frances Nicholson, Judith Kumin, and UNHCR, A Guide to International Refugee Protection and Building State Asylum Systems (Inter-Parliamentary Union, 2017), <https://www.unhcr.org/3d4aba564.pdf>.

²⁰ Ibid.

²¹ Ibid.

protection is vital for refugees, but both the UNHCR and states must also be able to meet the refugees' basic needs such as shelter, food, water, sanitation, medical care, and education.²² Assistance and protection reinforce refugees' conditions.

The second important point is the roles and responsibilities of states. States' responsibility begins with addressing the root causes of forced displacement.²³ Strengthening the rule of law of their states and providing their citizens with security, justice, and equal opportunities.²⁴ These things are crucial to break the cycle of violence, harassment, and discrimination that can lead to displacement.

When states ratify the 1951 Convention or the 1967 Protocol, they agree to protect refugees in their territories and under their jurisdiction.²⁵ States also have accepted to expand relevant rights to refugees per international human rights obligations. Moreover, states that are not parties to the Convention or Protocol remain bound by the principle of *non-refoulement*, which regards as a norm of customary international law and is thus binding all states.²⁶ Refugee protection can be enhanced with committed international cooperation which has a spirit of solidarity in responsibility and burden-sharing among all states.²⁷

The Executive Committee encourages states and all other relevant actors to commit themselves with the spirit of international solidarity and burden-sharing, to address the root causes of refugee situations, to ensure that people are not forced to

²² Ibid.

²³ Ibid.

²⁴ Frances Nicholson, Judith Kumin, and UNHCR, A Guide to International Refugee Protection and Building State Asylum Systems (Inter-Parliamentary Union, 2017), <https://www.unhcr.org/3d4aba564.pdf>.

²⁵ Ibid.

²⁶ Ibid.

²⁷ United Nations, "Conclusion on International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations No. 100 (LV) – 2004," Refworld, accessed October 5, 2019, <https://www.refworld.org/docid/41751fd82.html>.

flee their countries of origin, to find safety elsewhere, and to resolve complicated refugee situations in full respect for the rights of affected persons.²⁸ States can make significant contributions by providing financial and technical assistance, and by participating in refugee resettlement programs.²⁹ This literature is useful and linked in facilitating analysis of China that does not comply with established international rules regarding refugee issues.

The other literature is published from Oxford University Press by Elim Chan and Andreas Schloenhardt with the title *North Korean Refugees and International Refugee Law*. This literature discusses the situation of North Koreans in China and China's obligations under international human rights and refugee law.

The most important point from this literature is the eligibility of the Democratic People's Republic of Korea (DPRK) escapees for refugee status.³⁰ Refugee Convention contains provisions for the care and protection that must be provided to refugees, as well as the obligations of state parties to cooperate with the UNHCR in carrying out its functions.³¹

The Refugee Convention recognizes one as a refugee if one has a fear of being persecuted for reasons of race, religion, nationality, membership of certain social groups, or political opinions, is outside one's national state and unable to or, for fear, is unwilling to avail oneself of the protection of that state.³²

²⁸ United Nations, "Conclusion of the Executive Committee on International Cooperation from a Protection and Solutions Perspective No. 112 (LXVII) 2016," Refworld, accessed October 5, 2019, <https://www.refworld.org/docid/57f7b5f74.html>.

²⁹ Frances Nicholson, Judith Kumin, and UNHCR, *A Guide to International Refugee Protection and Building State Asylum Systems* (Inter-Parliamentary Union, 2017), <https://www.unhcr.org/3d4aba564.pdf>.

³⁰ Andreas Schloenhardt and Elim Chan, *North Korean Refugees and International Refugee Law* 19, no. 2 (July 4, 2007), <https://doi.org/http://dx.doi.org/10.1093/ijrl/eem014>.

³¹ Art. 35 Refugee Convention and Art. 2 Refugee Protocol.

³² Art. 1A(2) Refugee Convention as amended by the Refugee Protocol.

The Refugee Convention protects certain types of migrants who fear states' persecution by placing responsibilities on states parties to provide protection. The Special Rapporteur identified two main categories of the DPRK refugees: (1) those who fled from the DPRK because of fear of political persecution, so this follows the traditional concept of refugee definition and (2) those who have fled from the DPRK for other reasons, for example in searching for food during a crisis, and who are now afraid of persecution if they return to North Korea because of heavy sanctions for illegal departure, this is called a *sur place* refugee.³³ This literature is useful to identify what type of refugee is a North Korean escapee in general.

The third literature is a journal article of Korean unification studies written by Joel R. Charny with the title North Koreans in China: A Human Rights Analysis. This literature discusses the situation for North Koreans in China from a human rights perspective and describes China's policy, which considers all North Koreans to be illegal economic migrants.

The most important point from this literature is protection for North Koreans in China. The status of refugees for North Koreans in China is clear. Their conditions and situations follow the definition of refugees, according to the United Nations High Commissioner for Refugees (UNHCR). However, in reality, protection measures are challenging to uphold.

China continues to regard all North Koreans in China as illegal economic migrants, avoiding political pressure from the UNHCR and other governments to

³³ Muntarhorn, above n. 23, 12-13.

change their stance. Nevertheless, public awareness about the human rights issue of North Koreans in China is increasing.³⁴

China has serious security problems in two areas, namely criminal acts committed by North Koreans on the Chinese mainland and a massive wave of North Koreans refugees into their territory, caused by a social disruption in North Korea or by massive responses to more liberal asylum policies.³⁵ China must have policies to liberalize its treatment of North Korean refugees, but this policy should not provoke a large flow in response.³⁶

The most straightforward choice for China is to stop all deportations of North Koreans in China, except for those who commit crimes.³⁷ As an immediate humanitarian measure, China can also grant official residence permits to North Koreans who have spouses of Chinese citizens and their children.³⁸

The next policy option for China is giving all North Korean citizens in China unlimited human rights watch status.³⁹ Alternatively, give a special residence visa to North Koreans if they can show that they have a job and a place to live.⁴⁰ A one-time amnesty for all North Koreans in China, with permission to remain in the country.⁴¹

³⁴ Joel R. Charny, *North Koreans in China: A Human Rights Analysis* 13, no. 2 (2004): pp. 75-97, <https://www.refworld.org/pdfid/47a6eba20.pdf>.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ "The Invisible Exodus: North Koreans in the People's Republic of China," Human Rights Watch, August 30, 2016, <https://www.hrw.org/report/2002/11/19/invisible-exodus/north-koreans-peoples-republic-china>.

⁴⁰ Hazel Smith, "Explaining North Korean Migration to China," *Explaining North Korean Migration to China - Wilson Center* (Woodrow Wilson International Center for Scholars, September 2012), https://www.wilsoncenter.org/sites/default/files/NKIDP_eDossier_11_Explaining_North_Korean_Migration_to_China.pdf.

⁴¹ *Ibid.*

The next policy option is the most difficult to achieve that is respecting its obligations under the Refugee Convention 1951 and 1967 Protocol.⁴² China is obliged to allow the UNHCR to access without obstacles to North Korean refugees in China to review its overall situation and to determine individual status.⁴³ This literature is useful in facilitating human rights regarding China's policy on North Korean refugees.

Based on the explanations above, there are some differences between the three literature studies with the writer's research. The first literature study solely concentrates on UNHCR's guidance on the protection of refugee and its Provisions while this research concentrates on UNHCR's efforts in addressing North Korean refugee issue in China. The second literature study focuses on North Korean eligibility on refugee status without discussing and identifying UNHCR's refugee status determination effort thus, it is different from this research which discusses and identifies UNHCR's refugee status determination effort on North Korean asylum-seekers. Lastly, the third literature study emphasizes China's policy on North Korean refugees from a human rights perspective while this research emphasizes on China's policy compared to its implementation on UNHCR's provisions in the perspective of liberal institutionalism theory and complement with international organizations roles and functions, human security, and humanitarian obligations and responsibility concepts.

1.5 Theoretical Framework

⁴² Ibid.

⁴³ Ibid.

The theoretical framework is an identification of theory used as a basis of thinking that can explain, predict, support, and challenge a research study.⁴⁴ The theoretical framework presents and describes the theory, which explains why the research problem exists and, at the same time, answers the research question. The theoretical framework has concepts that are relevant to the topic of the research study, and it broadens the fields of knowledge under the study.⁴⁵

The framework used as the basis for analysis in this research study derived from the theory of Liberalism, namely Institutional Liberalism, and some concepts that are used related to this research are Human Security and the second concept is Humanitarian Responsibility and Obligations.

Liberal thinking is closely related to the appearance of the modern constitutional state. Liberals believe that modernization is a process with progress in all different areas of life.⁴⁶ The process of modernization broadens the opportunity for cooperation across international boundaries. International organizations' roles and functions have parts in the international world. Through international organizations, cooperation can be much easier to attain. However, at the same time, they do not claim that such organizations can automatically ensure a qualitative transformation of international relations. Organizations can be universal with global memberships, regional, or sub-regional.

In this case, the research paper uses a universal organization with global memberships, namely the UNHCR. A high-level organization can reduce the

⁴⁴ “Research Guides: Organizing Academic Research Papers: Theoretical Framework,” Theoretical Framework - Organizing Academic Research Papers - Research Guides at Sacred Heart University, accessed September 17, 2019, <https://library.sacredheart.edu/c.php?g=29803&p=185919>.

⁴⁵ Ibid.

⁴⁶ Robert Jackson and Georg Sorensen, *Introduction to International Relations: Theories and Approaches*, fifth (Oxford University Press, 2013).

destabilizing effects of multipolar anarchy significantly, thus, help to reduce member states' fear towards each other because international organizations provide a medium for negotiation between states.⁴⁷ Also, international organizations provide sustainability and a sense of stability. On the other side, international organizations have weaknesses such as a lack of power and legitimacy, which is significant for taking on heavy responsibilities, and they continuously have challenges which they need to face in the current globalized world.⁴⁸

According to Ivan M. Arreguin-Toft and Karen A. Mingst, international organizations have six roles that create international cooperation, practice bargaining activities, facilitate transnational networks, limit national interests, create shared interests of member states and sometimes create state behavior.⁴⁹ Organizations such as UNHCR can carry out specific actions that are compatible with, or add to, state policies.⁵⁰ The roles of international organization helps explain UNHCR's efforts in this research.

The writer also uses Karen A. Mingst, Kendall W. Stiles, and Margaret P. Karns' book that discusses seven functions of an international organization. The first function is informational, namely, to collect, analyze, and distribute information. Second is the forum, which means international organization is a forum for member states to exchange notions and make decisions. The third function is normative, which means an international organization defines standards and regulates the behavior of its member states. The fourth is rule creation, which

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Karen A. Mingst and Ivan M. Arreguin-Toft, *Essentials of International Relations*, 7th ed. (New York, United States: W. W. Norton & Company Inc., 2017))

⁵⁰ Ibid.

is to draft binding agreements. The fifth is rule supervision, namely to monitors the implementation of agreements, mediates disputes, and makes efforts to enforce the agreements. The sixth function is operational, which allocates all available resources to provide technical assistance. The last function is idea generation, which generates and develops idea to make significant contributions.⁵¹ The functions of international organization helps the writer explain UNHCR's efforts.

Human security is the next concept that the writer uses. Human security is a significant broadening of traditional security. Since the Post-Cold War, the international world has seen a significant shift from focusing on external threats of the state to concentrating on direct and indirect violence, which happens to individuals within the state.⁵² According to Brendan Howe's book, whether it is with negligence or intention, states can be the reasons for human insecurity, and later it will become an underdevelopment emergence for their citizens.⁵³ Natural disasters, violent conflicts, constant and continuous poverty, health pandemics, international terrorism, and unanticipated economic and financial reduction inflict significant hardships and weaken prospects for sustainable development, peace, and stability. Those complicated crises are starting points that create multiple forms of human insecurity. One of the ways to solve it is to resolve all of those insecurities thoroughly because resolving a single issue would not be enough. After all, human security is a more effective and long-lasting approach.

⁵¹ Karen A. Mingst, Margaret P. Karns, and Kendall W. Stiles, "Intergovernmental Organizations," in *International Organizations: The Politics and Processes of Global Governance*, third (Boulder, Colorado: Lynne Rienner, 2015), pp. 25-28.

⁵² Brendan Howe, *The Protection and Promotion of Human Security in East Asia* (Hampshire, United Kingdom: Palgrave Macmillan, 2013).

⁵³ *Ibid.*

The government has the most obligations and responsibility in guaranteeing the survival and livelihood of its citizens because human security involves giving full respect to the states' sovereignty, territorial integrity, and non-interference in domestic jurisdiction issues.⁵⁴ The role of the international community is to add and provide the necessary support to governments and also to strengthen their capacity to counter current and arising threats.⁵⁵ Human security needs more significant combination and cooperation among governments, international, regional organizations, and civil society.

Issues of human security can transform into concerns for the survival of states or the peace and security of a region or even the globe.⁵⁶ North Korea fails at providing every aspect of human security, and it does not comply with international legal obligations such as the Universal Declaration of Human Rights, the International Covenant on Economic and Social Rights, the International Covenant on Civil and Political Rights, and other human rights instruments.⁵⁷ Thus, human insecurity in North Korea has the potential to transform and lead the issues into national and international security challenges.

This research also uses Humanitarian Responsibility and Obligations as a concept that is useful in analyzing the research problem. The world is witnessing a high level of displacement and movement because people need protection from persecution or conflict. They experience difficult routes to reach places with safer

⁵⁴ "Human Security Handbook," human security handbook - the United Nations (United Nations Trust Fund for Human Security, January 2016), <https://www.un.org/humansecurity/wp-content/uploads/2017/10/h2.pdf>.

⁵⁵ Ibid.

⁵⁶ Brendan Howe, *The Protection and Promotion of Human Security in East Asia* (Hampshire, United Kingdom: Palgrave Macmillan, 2013).

⁵⁷ Greg Scarlatoiu, "International Journal of Korean Studies," *Human Security in North Korea* XIX, no. 2 (2015).

and more stable conditions. 193 United Nations Member States need to be aware of their collective responsibility to overcome this global crisis. There is a recognition that it will be solved through the spirit of international solidarity and assistance. However, states seem to be unwilling to recognize any obligation to provide such assistance. The states are either forcing people to seek protection or neglecting their international law obligations to help people on the move with the protection and assistance that they deserve. According to George Kent, demands regarding the right to assist must be accompanied by a recognizance of the obligation to assist.⁵⁸

As stated in the 1951 Convention and 1967 Protocol, states have roles and responsibilities in overcoming the issue of refugees. Regulations made by UNHCR binds states to make significant contributions by giving financial and technical assistance, and by participating in refugee resettlement programs.⁵⁹ Moreover, the UNHCR and states must be able to meet the refugees' basic needs such as education, food, medical care, sanitation, shelter, and water.⁶⁰ States are also bound by the principle of *non-refoulement*, which protects refugees from being forcibly returned to their country of origin where their lives or freedom would be jeopardized and it establishes obligations of refugees and states' responsibilities towards it.⁶¹

This concept is vital in helping to analyze the crisis of North Korean refugees in China. The writer associates the concept with the United Nations High

⁵⁸ George Kent, "Rights and Obligations in International Humanitarian Assistance," *Rights and Obligations in International Humanitarian Assistance* 23 (2014), <https://doi.org/10.1108/DPM-07-2013-0122>.

⁵⁹ Frances Nicholson, Judith Kumin, and UNHCR, *A Guide to International Refugee Protection and Building State Asylum Systems* (Inter-Parliamentary Union, 2017), <https://www.unhcr.org/3d4aba564.pdf>.

⁶⁰ *Ibid.*

⁶¹ Frances Nicholson, Judith Kumin, and UNHCR, *A Guide to International Refugee Protection and Building State Asylum Systems* (Inter-Parliamentary Union, 2017), <https://www.unhcr.org/3d4aba564.pdf>.

Commissioner for Refugees (UNHCR) Conventions and Protocols regarding refugees.

1.6 Research Method and Data Collection Technique

1.6.1 Research Method

The research method that the writer uses is qualitative. Qualitative research method relies on facts, reality, and phenomena that aim to explore and understand the meaning of human problems.⁶² This method can help the writer to assemble different knowledge effectively and coherently.

Qualitative method is a methodology that generates descriptive and exploratory data. The descriptive function is to arrange the findings to fit the explanation and tested using that explanation.⁶³ In this research study, the writer describes how the United Nations High Commissioner for Refugees (UNHCR) addresses issues related to the North Korean refugee crisis in China.

1.6.2 Data Collection Technique

Data collection techniques in this research study uses literature study techniques by examining books, reports, news, international journal articles, YouTube videos, and official sites which discuss the information related to this research study topic. To help to identify and formulate problems to find the research study results. All sources which come from the internet are credible.

1.7 Research Structure

⁶² John W. Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (Los Angeles, CA: SAGE, 2014).

⁶³ Nancy Nelson Knupfer and Hillary McLellan, *Chapter 41: Descriptive Research Methodologies* (New York, United States: Simon & Schuster Macmillan, 1996).

This research is divided into five parts consisting of chapters I through V. Here is the brief explanation of the chapters:

CHAPTER I – INTRODUCTION

This chapter discusses the introduction as the beginning and the basis of writing. The writer explains the background and the identification of the problem, the aim and benefit of the research conducted by the writer, literature review, framework, and basic research concepts, research methods and data collection techniques which applied in the research, and systematic sections in the form of a writing framework.

CHAPTER II – THE EMERGENCE OF NORTH KOREAN REFUGEES CRISIS IN CHINA

This chapter describes the cruelty of the North Korean government, which violates many human rights of its citizens. These violations lead to many human insecurities, which resulted in the emergence of the North Korean refugee crisis in China. China has the obligations and responsibilities to protect North Korean refugees but fails to do so. China forcedly repatriates North Korean asylum seekers that result in them being sentenced inhumanely in North Korea.

CHAPTER III – UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR) AS A GLOBAL INSTITUTION WITH THE MANDATE OF PROTECTING REFUGEES

This chapter illustrates the deeper characteristics of the UNHCR as an international organization that has a global impact, specifically in the humanitarian field for refugees. The role and function of the organization is discussed in this chapter. The UNHCR executes roles as an agency that protects human rights in the

context of assistance to refugees. The writer also mentions challenges in addressing the efforts.

CHAPTER IV – UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES' (UNHCR) EFFORTS TO ADDRESS ISSUES RELATED TO THE NORTH KOREAN REFUGEE CRISIS IN CHINA

This chapter focuses on analyzing the efforts of the UNHCR in addressing issues related to the North Korean refugee crisis in China using the theoretical framework mentioned in chapter I.

CHAPTER V – CONCLUSION

This chapter completes the research by giving conclusions based on the overall results of the research. This chapter presents an analysis of the efforts and challenges that the UNHCR has made and encountered in addressing issues related to the North Korean refugee crisis in China.

