

CHINA'S CRACKDOWN ON NORTH KOREAN REFUGEES:  
NORTH KOREAN PROVOCATIONS INTENSIFY BORDER CONTROL

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**ABSTRACT**

What domestic and external conditions explain why the People's Republic of China (PRC) at times intensifies its crackdown on North Korean border crossers? With the 1986 bilateral repatriation agreement between the PRC and the Democratic People's Republic of Korea (DPRK) as the basis, China continues to deny North Korean asylum seekers refugee status and has instead labeled them as illegal economic migrants. Although data on North Korean refugees are limited, international organizations and media have observed specific periods such as *March 2002-January 2003*, *February-April 2012*, and *July 2017-April 2018* when China intensified its Sino-North Korean border control efforts. Existing analyses focus on the refugees' living conditions and legal status without providing an explanation of the underlying geo-political variables. This paper argues against the common misconception that China heightens border control efforts when Sino-North Korean relations are amicable. In contrary, intensified crackdowns occur when Beijing's regional stability is threatened by Pyongyang's pivotal provocations. Provocations raise the possibility of a potential regime collapse in North Korea and mass cross-border migrations of North Koreans into China. The three periods of intensified crackdowns as identified by international institutions and the media coincide with such cases—*North Korea's withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in 2003*, *the rise of Kim Jong-un from 2011-2012*, and *the escalation of nuclear and missile tests in 2017*. Such events, when accompanied by limited Sino-North Korean cooperation and heightened international scrutiny against North Korea, pose difficulties in China's abilities to shield North Korea from a potential regime collapse.

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## Introduction: China's Shifts in Border Control Efforts

North Koreans have defected since the division of the Korean peninsula in the 1950s, but large-scale migrations began with a nation-wide famine in the mid-1990s and the accompanying economic crisis known as the Arduous March (or the March of Suffering). While the exact number of post-famine North Korean migrants is not available, the U.S. State Department places the figure between 30,000 and 50,000 per year while other organizations and scholars have estimated the numbers to be between 100,000 and 300,000.<sup>1</sup> Due to the massive cross-border migration of North Korean citizens, China has become increasingly active in arresting and deporting North Korean refugees who reside near the Sino-North Korean border area.

China faces international criticisms due to a wide range of human rights violations,<sup>2</sup> but also specifically for its practice of *refoulement* against North Korean refugees. Beijing is a signatory member of the United Nation's 1951 Convention and its 1967 Protocol Relating to the Status of Refugees (hereinafter referred to as the "Refugee Convention") which prohibits states from undertaking *refoulement*—or the involuntary repatriation of refugees without the granting of asylum.<sup>3</sup> The Refugee Convention stipulates the *principle of non-refoulement* by contending that "no one shall expel or return ("refouler") a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom."<sup>4</sup>

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<sup>1</sup> Peter Beck, Gail Kim and Donald Macintyre "Perilous Journeys: The Plight of North Koreans in China," in Rüdiger Frank, James E. Hoare, Patrick Köllner and Susan Pares (eds.), *Korea Yearbook* (Boston: Brill, 2007), 253-282; United States Department of State, *The Status of North Korean Asylum Seekers and the USG Policy Towards Them*, (2005).

<sup>2</sup> For instance, Beijing allows for political detentions and torture of detainees and uses arbitrary force against various ethnic groups including the Tibetans and Uighur Muslims. The Communist Chinese Party (CCP) also exercises excessive state control over media, public security and family planning practices, limiting the Chinese people's individual freedom.

<sup>3</sup> United Nations High Commissioner for Refugees (UNHCR), *Convention and protocol Relating to the Status of Refugees*, (Geneva: United Nations High Commissioner for Refugees, 2010).

<sup>4</sup> *Ibid.*, 3.

Although China is a contracting state to the Refugee Convention and is responsible for granting asylum to North Korean refugees, Beijing habitually violates its international treaty obligations by denying the asylum seekers refugee status. According to Article I of the Convention, a *refugee* is defined as “someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”<sup>5</sup> Instead of considering North Korean defectors as refugees, however, Beijing deems them as “illegal economic migrants” who should be returned to North Korea under the 1986 China-North Korea Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order in the Border Area (or the 1986 North Korea-China Bilateral Repatriation Agreement).<sup>6</sup>

Yet the act of fleeing by North Koreans does not solely amount to an attempt at economic salvation. North Korean refugees often escape for political reasons for which they could face extensive prison terms, torture or execution upon returning to their country as outlined by the North Korean Criminal Code.<sup>7</sup> According to Chung Byung-Ho, a South Korean anthropologist, “For the people in North Korea, crossing the national border is not a simple act for better living. It is considered as an ultimate resistance to the regime, [of] the same order as suicide.”<sup>8</sup>

The international community has continuously urged Beijing to respect the principle of non-refoulement under the Refugee Convention. The United States passed the North Korean

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<sup>5</sup> United Nations High Commissioner for Refugees, *Convention and Protocol Relating to the Status of Refugees*, (Geneva: United Nations High Commissioner for Refugees, 2010), 3.

<sup>6</sup> Roberta Cohen, “China’s Repatriation of North Korean Refugees,” Testimony, Brookings Institute, 5 March 2012, accessed at <https://www.brookings.edu/testimonies/chinas-repatriation-of-north-korean-refugees/>

<sup>7</sup> Congressional-Executive Commission on China, *Annual Report of the One Hundred Ninth Congress, First Session*, (Washington D.C.: U.S. Government Printing Office, 2005), 113.

<sup>8</sup> Joel R. Charny, “North Koreans in China: A Human Rights Analysis,” *International Journal of Korean Unification Studies* 13, no. 2, (2004): 78-79.



Human Rights Act (H.R. 4011) in October 2004 under President George W. Bush to provide further legal and humanitarian assistance to North Korean refugees who have fled their homes.<sup>9</sup> H.R. 4011 differs from its predecessor, the North Korean Freedom Act of 2003, with an increased emphasis on the “refugee problem” in legal jargon closely resembling that of the established Refugee Convention.

Similarly, the Report of the United Nations Commission of Inquiry (COI) in February 2014 served as a landmark event by incorporating human rights into the traditional security dialogue. The report not only contended that North Korea’s human rights abuses amounted to “crimes against humanity,”<sup>10</sup> but also generated a sustained focus on human rights among high-level officials and policymakers in the ongoing discussion of North Korea policy.<sup>11</sup> Furthermore, the COI report explicitly censured China’s violation of the principle of non-refoulement in addition to Beijing’s suspected information sharing with Pyongyang regarding the identity of North Korean “illegal migrants” who have crossed the Sino-North Korean border.

Despite signs of growing international pressure, China continues to forcibly repatriate North Korean refugees and the number is believed to have risen from around 580 in 1996 to 8,000 in 2003.<sup>12</sup> In addition, while China is a contracting state to the Refugee Convention, its stance on the United Nations Convention against Torture and Other Cruel, Inhumane or Degrading

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<sup>9</sup> The North Korean Human Rights Act of 2004 authorized 20 million USD of humanitarian assistance to North Koreans residing outside of North Korea for the fiscal years 2005 through 2008. For more information, see: United States Congress, *North Korean Human Rights Act of 2004*, 118 STAT. 1287 (18 October 2004), accessed at <https://www.congress.gov/108/plaws/publ333/PLAW-108publ333.pdf>

<sup>10</sup> United Nations Human Rights Council, *Report of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea*, A/HRC/25/63 (7 February 2014), accessed at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/108/66/PDF/G1410866.pdf?OpenElement>

<sup>11</sup> Author conversation with former CIA Deputy Division Chief, February 17, 2018.

<sup>12</sup> See section: *Shifts in China’s Crackdown on North Korean Refugees: Periodic Observations*.

Treatment or Punishment (hereinafter referred to as the “Convention against Torture”) remains elusive.<sup>13</sup> By refusing to hold itself accountable to fundamental clauses in international treaties, Beijing often interprets the legal conditions of such conventions in ways that would be conducive to its own national interests.

This paper aims to fill in the gap in present literature by arguing that North Korean provocations are an important factor in inducing heightened border control efforts by China. Such view contradicts the prevailing perception that China arrests, detains and repatriates more North Koreans when Sino-North Korean relations are amicable. In fact, it is when North Korean provocations are high and when Sino-North Korean communications are low that Beijing engages in intensified crackdowns. This is because in such cases, China lacks overall leverage in shielding North Korea from international criticisms and is unable to effectively prevent a potential regime collapse in North Korea.

There are three periods of intensified crackdowns with coinciding cases of North Korean provocations. The first period of *March 2002-January 2003* took place during North Korea’s withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The second period of *February-April 2012* occurred following North Korea’s leadership transition from Kim Jong-il to Kim Jong-un, and the new leader’s defiance against an agreement with the U.S. The third period of *July 2017-April 2018* reflected heightened missile and nuclear tests by Pyongyang. Unlike the interim periods when China’s crackdowns on North Koreans were relatively normal, the three periods were accompanied by limited Sino-North Korean bilateral communication.

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<sup>13</sup> China refuses to abide by paragraph 1 of Articles 30 and 20 of the Convention against Torture, which admits the respective contracting state’s recognition of the Convention and allows for the International Court of Justice (ICJ) to hold the state legally accountable when it fails to abide by the Convention.

## I. The Prevailing View: Living Conditions and Legal Status of North Koreans

Continued repatriation of North Koreans by China and Beijing's unwillingness to abide by the principle of *refoulement* have led scholars to focus on either the living conditions or the legal status of North Korean refugees in their human rights analysis. While these studies shed light on the socio-economic standing of North Koreans in China as well as the ongoing juridical discourse on refugee rights, they do not fully explain the conditions underlying periodic shifts in Beijing's North Korean refugee policy.

A traditional approach to examining North Korean human rights addresses the living and psychological conditions of the refugees. This is due to the fact that prior to the establishment of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea (DPRK) in March 2013 and the release of the COI report in February 2014, studies on human rights of North Korean refugees largely relied on the concept of *human security* as put forth by the 1994 Human Development Report of the United Nations Development Programme (UNDP).<sup>14</sup>

Many studies focus on the human rights situation of North Koreans in China because border crossers often transit through China to reach third countries including South Korea. One way to approach the human security framework is by analyzing the residence and food conditions of North Korean defectors and their descendants who have either settled in or have been repatriated from China.<sup>15</sup> Data analyses on relative food consumption and income levels of North Korean migrants in China also help to determine the economic security of North Korean refugees.<sup>16</sup>

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<sup>14</sup> United Nations Development Program, *Human Development Report*, (New York: Oxford University Press, 1994).

<sup>15</sup> Yeo Sang Yoon, "Status and Human Rights Situation of North Korean Defectors in China," *Journal of Peace and Unification* 2, no. 2, (2012): 51-79.

<sup>16</sup> Woo-young Lee and Yuri Kim, "North Korean Migrants: A Human Security Perspective," *Asian Perspective* 35, no. 1, (2011): 59-87.

Quantitative studies also show that the North Korean population within China has continued to decrease throughout the recent decades as a result of harsher border control efforts.<sup>17</sup>

With international developments in the human security dialogue, studies have expanded to include the psychological status of North Korean refugees. In fact, the majority of North Koreans in China suffer from psychological distress as a result of traumatic experiences and dehumanizing treatments while crossing the border. Surveys have been conducted on the victimization and post-migration depression of North Korean women who are vulnerable to sexual or bride trafficking for Chinese men.<sup>18</sup> Individual perceptions of family order and attachment to the native homeland also psychologically influence children born to North Korean mothers in China.

The last body of literature on North Korean escapees in China focuses on the legal dispute surrounding their refugee status. As immediate parties to the 1986 North Korea-China Bilateral Repatriation Agreement, China and South Korea are most responsible in determining the legal status of North Korean refugees.<sup>19</sup> China utilizes its existing border agreement with North Korea to flexibly interpret its legal obligations as a contracting member to the 1951 Refugee Convention.<sup>20</sup> China labels the refugees as “illegal economic migrants” and supports such view with evidence that many migrants leave North Korea due economic reasons such as food shortages. Therefore, a more active implementation of global mechanisms including the granting of North

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<sup>17</sup> Soo-am Kim, “Status of North Korean Defectors and Policies of Countries Concerned with Them,” *Journal of Peace and Unification* 1, no. 2, (2011): 3-29.

<sup>18</sup> Eunyoung Kim, Minwoo Yun, Mirang Park and Hue Williams, “Cross Border North Korean Women Trafficking and Victimization between North Korea and China: An Ethnographic Case Study,” *International Journal of Law, Crime and Justice* 37, no. 4, (2009): 154-169.

<sup>19</sup> Whiejin Lee, “The Status of North Korean Refugee and Their Protection in International Law,” *The Journal of East Asian Affairs* 30, no. 2, (2016): 45.

<sup>20</sup> *Ibid.*, 57.

Korean access to the United Nations High Commissioner for Refugees (UNHCR) would provide additional human security for the refugees.

As discussed above, existing literature on North Korean refugees in China is predominated by empirical studies on their living conditions and legal debates surrounding their refugee status. While the existing literature recognizes an overall trend of increased border control efforts by China, it does not take into account the periodic shifts in Beijing's crackdown on North Korean refugees. Furthermore, although legal studies strive to provide policy recommendations for the international community in addressing China's disrespect for the Refugee Convention, such statements are often aspirational and divorced from domestic and regional security implications. The next sections of the paper address these limitations in the existing literature by providing an overview of periodic shifts in China's crackdown on North Korean refugees and their relation to instances of pivotal North Korean provocations. In doing so, the paper underscores the influences of the changing security environment on China's Sino-North Korean border control efforts.

## **II. Three Periods of Intensified Crackdowns by China on North Korean Refugees**

Studies on North Korean human rights and the refugee problem suffer from measurement problems due to limited data and information.<sup>21</sup> Yet increased international recognition of the global human rights agenda has raised public awareness of North Korean human rights abuses and enabled both governments and nongovernmental organizations to release more well-informed data. Landmark developments include the launching of the Commission of Inquiry (COI) by the United Nations Human Rights Council in March 2013 and the release of the first COI Report in February

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<sup>21</sup> Victor Cha, *The Impossible State: North Korea, Past and Future*, (New York, NY: Random House, 2012).

2014. The 2014 COI Report not only condemned North Korea for its “crimes against humanity,” but also criticized China for failing to respect its obligations to the 1951 Refugee Convention and the 1967 Protocol.<sup>22</sup>

North Korea’s participation in the United Nation’s Universal Periodic Review (UPR) in December 2009 also garnered much international attention. However, the UPR failed to elicit tangible change in Pyongyang’s internal policies as the regime took advantage of the international framework by soliciting support from other countries found in violation of human rights such as China.<sup>23</sup> Nonetheless, more governments and organizations have been keen on releasing information on North Korea to counter Pyongyang’s defiant actions.

Although it is difficult to identify a unified source of data for China’s refoulement of North Korean refugees, many governments and organizations largely rely on the Human Rights Watch (HRW) for information. In November 2002, HRW published a report entitled *The Invisible Exodus: North Koreans in the People’s Republic of China* which specifically advised China to halt its refoulement of North Korean refugees.<sup>24</sup> In addition to the 2002 World Report, HRW publishes an annual World Report with a country summary focused on North Korea. The reports consist of a summary of the vulnerable groups inside North Korea, Pyongyang’s latest border control efforts, as well as human rights related policies of key international actors including South Korea, Southeast Asian nations, Japan and the U.S.<sup>25</sup>

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<sup>22</sup> United Nations Human Rights Council, *Report of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea*, A/HRC/25/63 (7 February 2014), accessed at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/108/66/PDF/G1410866.pdf?OpenElement>

<sup>23</sup> Jonathan T. Chow, “North Korea’s Participation in the Universal Periodic Review of Human Rights,” *Australian Journal of International Affairs* 1, no. 2, (2017): 146-147.

<sup>24</sup> Human Rights Watch, “The Invisible Exodus: North Koreans in the People’s Republic of China,” *World Report* 14, no. 8, (2002): 5.

<sup>25</sup> Human Rights Watch, “Country Summary: North Korea,” *World Report*, (January 2018), accessed at [https://www.hrw.org/sites/default/files/northkorea\\_3.pdf](https://www.hrw.org/sites/default/files/northkorea_3.pdf)

The overall limitation in data often leads existing literature and government statements to acknowledge Beijing's continued repatriation of North Korean refugees since the mid-1990s without providing specific numbers of refoulement.<sup>26</sup> Yet periods of *intensified crackdowns*—sudden increases in the cases of arrest, detainment and repatriation (or *refoulement*) of North Koreans by China—have been identified and confirmed by the U.S. Department of State, international organizations such as HRW, and prominent media outlets. Periods of intensified crackdowns differ from normal crackdowns by triggering specific reports on China's doubling of crackdowns by international institutions and media via direct or indirect witnesses.<sup>27</sup> Sources of information include Chinese government reports as well as current activists and North Korean defectors who are in contact with family members and other people in China and North Korea. Following their arrest near the Chinese-North Korean border, North Koreans may be detained by the Chinese government and potentially repatriated to North Korea for interrogation, forced labor, torture, punishment, and potentially a death sentence.<sup>28</sup>

The three periods—*March 2002-January 2003*, *February-April 2012*, and *July 2017-April 2018*—represent interesting case studies for China's *intensified crackdown* on North Korean refugees (see *Figure 1* and *Appendix*). They range from two and a half to eleven months and are unsystematically dispersed throughout the past two decades. The variances in their duration and

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<sup>26</sup> According to a study on the U.S. Department of State Human Rights Country Reports on China and North Korea to show how the U.S. has increased its human rights emphasis for both countries but with an inconsistency in reporting the North Korean refugee situation in regard to terms, content and sources. For more information, see: Hun Joon Kim, "Reporting North Korean Refugees in China: The Case of the U.S. Department of State Human Rights Country Reports," *Korean Observer* 46, no. 1, (2015): 117-144.

<sup>27</sup> For instance, the crackdown in Summer 2017 was identified in relation to numbers from the previous year; while 51 North Koreans were arrested and 37 of them were repatriated throughout the 12-month period from July 2016 to June 2017, 41 refugees were detained within the 2-month period of July to August 2017 alone, portraying a doubling of crackdowns by China. For more information, see *Appendices*.

<sup>28</sup> Arrests often occur in provinces such as Yunnan, Liaoning, Shandong, or Jilin that are located in the China-North Korean border area.

occurrence suggest that there are specific factors—such as North Korean provocations and Sino-North Korean bilateral cooperation efforts—which help to explain why China’s border control efforts increased during these times.

PERIOD (MONTH / YEAR)	DURATION	REPORTED CASES OF ARREST/ DETAINMENT/ REFOULEMENT	ORIGINAL SOURCE OF INFORMATION	NATIONS / INTERNATIONAL ORG. IN CONFIRMATION
MAR. 2002 – JAN. 2003	<b>11 months</b>	<b>133 Arrested</b>  <b>47 Detained</b>  <b>7 Repatriated</b>	PRC sources.  Witnesses and refugees	Human Rights Watch (HRW)  United States Commission on International Religious Freedom (USCIRF)  Doctors Without Borders (MSF)
FEB. 2012 – APR. 2012	<b>2.5 months</b>	<b>41 Arrested</b>  (Individuals were pending immediate repatriation instead of detainment)	Reports & Leaked PRC Documents	International Coalition to Stop Crimes against Humanity in North Korea (ICNK)  Human Rights Watch (HRW)  Liberty in North Korea (LiNK)
JUL. 2017 – APR. 2018	<b>7.5 months</b>	<b>47 Arrested</b>  <b>58 Detained</b>	Activists and North Koreans in ROK who are in contact with people in PRC and DPRK	Human Rights Watch (HRW)  North Korean Refugees Human Rights Association of Korea (NKR)

**Figure 1. Periods of China’s Intensified Crackdown on North Korean Refugees<sup>29</sup>**

<sup>29</sup> The numbers represented are the total estimates for cases of arrest, detainment, and repatriation of North Korean citizens by China made available by international sources that do not reflect the actual numbers which are higher. For more information, see *Appendices*.



### **III. China's Engagement of Intensified Crackdowns on North Korean Refugees**

International institutions and media provide supporting evidence for the three instances of intensified crackdowns by China (*March 2002-January 2003, February-April 2012, and July 2017-April 2018*). However, the question remains as to why China would engage in these periods of intensified crackdown on North Korean refugees and for what purpose. In the following sections, the paper discusses Beijing's perspectives on both domestic and regional stability to highlight North Korean provocations as an important variable in inducing tighter border control.

#### **Domestic Concerns: Health, Economy, & Politics**

China's concerns regarding North Korean defectors center around three distinct narratives: health, economy and politics. First, North Koreans are a great obstacle to China's nation-wide campaign for eliminating communicable diseases by 2020. Since North Korean defectors who seek refuge in China often lack proper immunization and access to healthcare, many of them carry infections and contribute to the spread of pandemics. Beijing remains traumatized by the failures of the past SARS epidemic and is also currently struggling to cope with other diseases such as AIDS and tuberculosis.<sup>30</sup> For these reasons alone, China does not want North Koreans to further aggravate the health situation within its borders.

Beijing's health-related considerations related to North Korean refugees are reflected in its bilateral agreement with Pyongyang. Within the China-DPRK 1986 Bilateral Agreement, Article I Clause III states the following: "In the event that in one side's border area, there occurs

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<sup>30</sup> David K. Tian, "Scarlet Fever in North Korea: Public Health as a Motivating Factor for China to Repatriate Defectors," *Yonsei Journal of International Studies* 9, vol. 2, (2017): 278.

an infectious disease or insect infestation or the other side's area is in danger of being contaminated, the other side must be immediately notified. When necessary, passage through the border area may be temporarily prohibited through negotiations of both sides.”<sup>31</sup> Therefore, China has legal precedents—at least with North Korea—which outline North Korean asylum seekers as legitimate concerns for the well-being and health of its domestic citizens.

Second, China identifies North Korean refugees as a potential threat to its domestic economy, especially for the industrial northeastern region near the Sino-North Korean border. According to a 2005 survey, the leading factor behind North Korean migrations into China is economic deprivation.<sup>32</sup> Although these results overshadow other important political and religious factors, they underline China's stance in labelling North Koreans refugees as “[illegal] economic migrants.” Indeed, in official statements and briefings at the National People's Congress, Chinese officials have continuously deemed North Korean refugees as “illegal economic migrants” who threaten the economy by contributing to domestic unemployment, inflation, inequality, and environmental degradation. For instance, in December 2015, China's Foreign Minister informed the *Korea Times*: “[China] [doesn't] use the term defectors ... Those North Koreans have illegally crossed the border due to financial hardship in their homeland. They did not go through normal immigration procedures and also disrupted public order in our border regions.”<sup>33</sup>

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<sup>31</sup> Ministry of State Security, Democratic People's Republic of Korea and Ministry of Public Security, People's Republic of China, *Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order in the Border Areas, PRC-DPRK*, (1986), accessed at [http://www.nkfreedom.org/UploadedDocuments/NK-China-bilateral\\_treaty.pdf](http://www.nkfreedom.org/UploadedDocuments/NK-China-bilateral_treaty.pdf)

<sup>32</sup> Stephan Haggard and Marcus Noland, *Hunger and Human Rights: The Politics of Food in North Korea*, (Washington DC: U.S. Committee for Human Rights in North Korea, 2005).

<sup>33</sup> Whan-woo Yi and Joint Peace Corps, “China Turning Hostile Toward NK Defectors,” *Korea Times*, 3 December 2015, accessed at [https://www.koreatimes.co.kr/www/news/nation/2015/12/120\\_192357.html](https://www.koreatimes.co.kr/www/news/nation/2015/12/120_192357.html)

Finally, Beijing also has political concerns tied to the inflow of North Korean refugees, one of which is the potential demand for autonomy by ethnic Koreans residing in the northeast region. China is mainly concerned for the state of the Yanbian Korean Autonomous Prefecture as many North Koreans enter China via the Tumen River and Yanbian, respectively. In addition, most of the two million ethnic Koreans in China live in the Jilin province, of which Yanbian is the largest administrative division with an estimated number of 854,000 ethnic Koreans with Chinese citizenship.<sup>34</sup> In general, however, ethnic Koreans tend to be less separatist other ethnic minorities such as the Tibetans and Uighurs and hence China is more accommodating of the ethnic Koreans in the northeast provinces than other ethnicities.<sup>35</sup>

Yet, China's warmer approach towards ethnic Koreans stems from the intrinsic fear of potential separatist movements in the northeast. China has two main concerns related to ethnic Koreans in the northeast region. One is their connection to other Korean diaspora communities in the U.S., Japan, and the former Soviet Union and the infiltration of foreign influence and information. The second—and a more imminent—concern is related to China's territorial sovereignty. The inflow of North Korean citizens into northeastern provinces—which are already heavily dominated by ethnic Koreans—fuels Chinese concerns of potential separatist movements from arising.<sup>36</sup> The illegal immigration of North Koreans into China hence represents a continued challenge for Beijing's maintenance of domestic stability.

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<sup>34</sup> Charny, "North Koreans in China," 77.

<sup>35</sup> Robert E. McCoy, "Ethnic Koreans in China Not Bound to N. Korea: Younger Generation in Yanbian Autonomous Region Well Aware of South Korean Wave," *NK News*, 28 June 2016, accessed at <https://www.nknews.org/2016/06/ethnic-koreans-in-china-not-bound-to-n-korea/>

<sup>36</sup> Baogang Guo and Chung-chian Teng, *China's Quiet Rise: Peace Through Integration*, (Plymouth, UK: Lexington Books, 2011), 111.

Overall, North Korean refugees threaten China's health, economic, and political policies and domestic stability. Beijing has openly addressed these concerns in legal documents, official statements, as well as in prior engagement with ethnic Koreans in the northeastern provinces. However, because these fears have continued since the 1990s, they do not fully account for other variables that are more well connected with periods of elevated crackdowns. The next section aims to explain the ebb and flow of Chinese crackdowns by introducing North Korean provocations as the missing variable.

#### **IV. North Korean Provocations as an Important Variable**

China's intensified crackdowns on North Koreans reflect the state of Sino-North Korean relations and most importantly, the respective attitude and foreign policy behavior of Pyongyang. China's quest for regional stability is in fact largely influenced by North Korea. Beijing seeks two aspects in regional stability vis-à-vis Pyongyang: one is to maintain its unique relationship with its traditional North Korean ally and the other is to address the potential social, economic and political problems that may arise due to large-scale cross-border migrations of North Koreans.

Some scholars believe that "when China has a good relationship with North Korea, ... China starts to intensify its border control, increase the frequency of refoulement, or conduct intense crackdown search for North Koreans illegally residing in China."<sup>37</sup> This explanation supports the generalized idea that when Sino-North Korean relations are "good," China is more willing to repatriate North Korean citizens so that they may be punished by the Kim regime for disrespecting the leadership.

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<sup>37</sup> Jane Haeun Lee, *The Human Rights Context of North Korean Movement to China: Rights, Law, and Diplomacy*, (Austin, TX: The University of Texas at Austin, 2016), 37.

Maintaining “good” or “favorable” relations with North Korea is important for China’s pursuit of regional stability, but the argument itself is insufficient for explaining elevated security efforts near the Sino-North Korean border. This is due to the fact that China and North Korea share an exclusive “lips-and-teeth” relationship as historical and ideological allies dating back to the Korean War. As a result of the historical alliance, Beijing holds a normative belief that the two countries “should interact not only according to national interests, but also [account] for the traditional structure and character of their relations.”<sup>38</sup> Despite occasional disagreements, the bilateral relationship between China and North Korea will likely remain stable insofar as the two countries share common security concerns such as the U.S. and South Korea.

The latter aspect of China’s concerns regarding cross-border migrations of North Koreans addresses a more imminent question: How should China respond to an influx of North Koreans which may follow potential crises in the Korean Peninsula and moreover, within North Korea? As evidenced by this question, Beijing’s concerns surrounding domestic and regional stability are strongly tied to its fear of a potential regime collapse in North Korea.<sup>39</sup> In other words, China fears that the regime collapse of North Korea would lead to a massive refugee influx of North Koreans into its territory, which would present grave domestic challenges related to health, economy and politics as discussed in the previous section.

So then, what are the specific factors that heighten China’s fears of a potential regime collapse in North Korea and consequently lead to its intensified crackdowns on North Korean

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<sup>38</sup> Leif-Eric Easley and In Young Park, “China’s Norms in its Near Abroad: Understanding Beijing’s North Korea Policy,” *Journal of Contemporary China* 25, no. 101, (2016): 659.

<sup>39</sup> Rhoda Margesson, Emma Chanlett-Avery and Andorra Bruno, “North Korean Refugees in China and Human Rights Issues: International Response and U.S. Policy Options,” *CRS Report for Congress*, Code RL34189 (26 September 2007).

refugees? On the one hand, Beijing remains the largest trading partner of Pyongyang and financially backs North Korea for the greater goal of maintaining its regional stability on the Korean peninsula.<sup>40</sup> On the other hand, China continues to advocate for the resumption of the Six Party Talks, which aims to denuclearize North Korea.<sup>41</sup> These efforts to reinstate communication channels reflect China's hopes of preventing a potential escalation of conflicts on the Korean peninsula and the collapse of the North Korean regime, respectively. For instance, amidst heightened tensions in April 2017, Chinese Foreign Minister Wang Yi proclaimed, "One has the feeling that a conflict could break out at any moment. ... We call on all parties to refrain from provoking and threatening each other, whether in words or actions, and not let the situation get to an irreversible and unmanageable stage."<sup>42</sup>

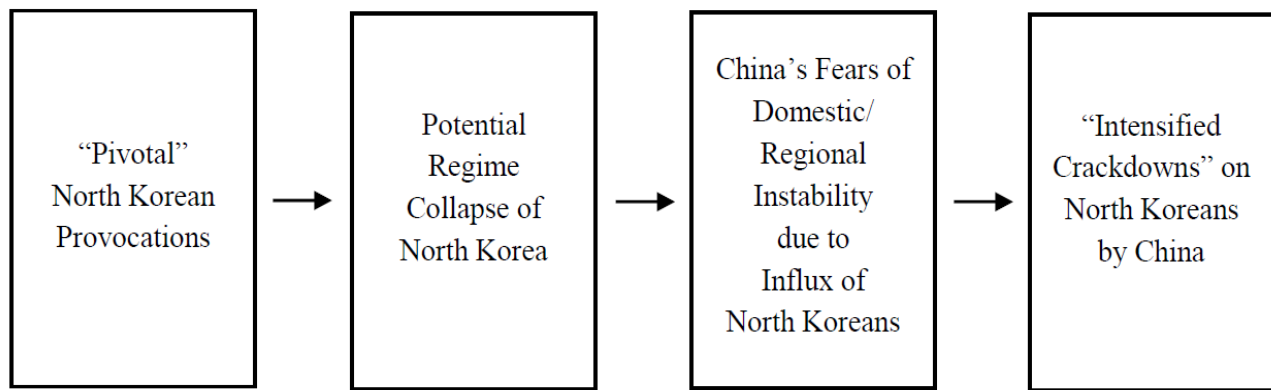
When North Korea engages in external provocations such as missile and nuclear tests, tensions escalate on the Korean Peninsula and lead to China's increased concerns over regional stability. In particular, when North Korea acts in a hostile manner and intensifies the existing conflicts on the Korean peninsula, the possibility of a regime collapse in North Korea via subsequent military intervention rises. The greater likelihood of a regime collapse in North Korea during times of heightened provocations then alerts China to prepare for an influx of North Korean refugees by elevating border control efforts (See *Figure 2*).

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<sup>40</sup> For China, regional stability also refers to the maintenance of the North Korean regime so that it may continue to act as a buffer zone against the United States presence in South Korea and prevent a potential reunification of the Korean peninsula under U.S.-led South Korea.

<sup>41</sup> Eleanor Albert, "The China-North Korea Relationship," *Backgrounder*, Council on Foreign Relations, (28 March 2018), accessed at <https://www.cfr.org/backgrounder/china-north-korea-relationship>

<sup>42</sup> "China Fears North Korea-US Conflict 'At Any Moment,'" *BBC News*, 14 April 2017, accessed at <http://www.bbc.com/news/world-asia-39600426>



**Figure 2. “Pivotal” North Korean Provocations Lead to Intensified Crackdowns**

The three periods of intensified crackdowns by China—*March 2002-January 2003*, *February-April 2012*, and *July 2017-April 2018*—are contextualized by instances of pivotal North Korean provocations and instabilities in the Kim regime. This paper defines *pivotal North Korean provocations* as those that differ from other cases by embodying a relatively abrupt change in Pyongyang’s behavior or position in comparison with past instances of provocations. These pivotal moments consequently lead to spikes in international criticisms and China’s fears of North Korea’s regime collapse. Beijing’s fears are especially high during times of limited Sino-North Korean contacts and cooperation because such conditions limit its ability to shield North Korea from a potential regime collapse (see *Figure 3*).

Factors	High	Low
North Korean Provocations	✓	
International Criticisms & Pressure (vis-à-vis U.S. Policy)	✓	
China-DPRK Contacts & Cooperation (vis-à-vis U.S.-DPRK Contacts)		✓

**Figure 3: Conditions that Increase China’s Fears of North Korea’s Regime Collapse**

The first period of *March 2002-January 2003* took place during the process of North Korea’s withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The second period of *February-April 2012* occurred following an abrupt leadership transition from Kim Jong-il to Kim Jong-un, when the new leader portrayed defiance against his agreement with the United States. Finally, the third period of *July 2017-April 2018* showcased heightened missile and nuclear tests by Pyongyang. These three periods were more concerning for Beijing than others because they represented times when North Korean provocations and international criticisms against North Korea were at their heights. Meanwhile, China lacked comparative leverage in shielding or protecting the North Korean regime from a potential collapse due to the lack of Sino-North Korean bilateral contacts and cooperation preceding or following the events (see *Figure 4*). The next sections of the paper describe these correlations in more detail.



Periods		Factors	High	Medium	Low
Period I (Mar. 2002-Jan. 2003)	Withdrawal from the NPT	North Korean Provocations	✓		
		International Criticisms & Pressure	✓		
		China-DPRK Contacts & Cooperation			✓
Interim Period I (Feb. 2003-Jan. 2012)	Six-Party Talks & Negotiations	North Korean Provocations		✓	
		International Criticisms & Pressure		✓	
		China-DPRK Contacts & Cooperation	✓		
Period II (Feb.-Apr. 2012)	Kim Jong-un & Failure of LDA	North Korean Provocations	✓		
		International Criticisms & Pressure	✓		
		China-DPRK Contacts & Cooperation			✓
Interim Period II (May 2012-Jun. 2017)	“Strategic Patience”	North Korean Provocations	✓		
		International Criticisms & Pressure		✓	
		China-DPRK Contacts & Cooperation			✓
Period III (Jul. 2017-Apr. 2018)	“Fire and Fury”	North Korean Provocations	✓		
		International Criticisms & Pressure	✓		
		China-DPRK Contacts & Cooperation			✓

**Figure 4: Conditions Under the Three Periods & Two Interim Periods<sup>43</sup>**

<sup>43</sup> Shaded variables correspond to the model outlined in *Figure 3*. For Interim Period I, none of the variables matched the conditions for increasing China’s fears of North Korea’s potential regime collapse while for Interim Period II, only two out of the three variables matched the conditions.

## **Period I: North Korea's Withdrawal from the NPT (2002-2003)**

North Korea's nuclear weapons program is believed to have begun in the mid-1950s under Kim Il-sung who wanted to increase the nation's deterrence capacities against the U.S. following the Korean War. With assistance from the Soviet Union, many North Korean scientists were technologically trained to construct nuclear reactors—including light water reactors (LWR)—some of which were completed in the 1980s.<sup>44</sup> In 1985, North Korea joined the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) at the request of the Soviet Union and for some time, the international treaty obligations were regarded as an effective measure for limiting Pyongyang's arms proliferation. Following the NPT, Washington and Pyongyang also arrived at the 1994 U.S.-North Korea Agreed Framework which froze North Korea's nuclear power development centered at the Yongbyon Nuclear Scientific Research Center. In return for a nuclear freeze at Yongbyon, the U.S. promised that it would provide two LWRs to North Korea by the year 2003.

However, the year 2002 marked significant turns in North Korea's defiance against international treaties. In the beginning of the year, the U.S.—via President George W. Bush's State of the Union Address—displayed concerns for North Korea's weapons of mass destruction (WMD) and human rights violations. On February 5, 2002, Secretary of State Colin Powell stated in a Senate Foreign Relations Committee hearing that Washington expected Pyongyang to comply with the missile-flight test moratorium and the 1994 Agreed Framework. North Korea responded via state media on March 15, 2002 that if the U.S. “tries to use nuclear weapons [against North Korea],” Pyongyang will “examine all the [existing] agreements [with the U.S. and other nations].”<sup>45</sup>

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<sup>44</sup> Kongdan Oh and Ralph C. Hassig, “North Korea: A Rogue State Outside the NPT Fold,” Brookings Institute, (1 March 2005), accessed at <https://www.brookings.edu/articles/north-korea-a-rogue-state-outside-the-npt-fold/>

<sup>45</sup> Kelsey Davenport, “Chronology of U.S.-North Korean Nuclear and Missile Diplomacy,” Arms Control Organization, (20 April 2018), accessed at <https://www.armscontrol.org/factsheets/dprkchron>

The exchange of harsh dialogue between the U.S. and North Korea signaled rising tensions in the region as well as Pyongyang's continued interest in WMD and nuclear development. In addition, the two nations were approaching the 2003 target completion date for the two LWRs—as stipulated under the 1994 Agreed Framework. The U.S. intelligence also expressed concerns in October 2002 that North Korea had been developing a clandestine uranium program which was in clear violation of the 1994 Agreed Framework.<sup>46</sup> These suspicions also led the Korean Peninsula Energy Development Organization (KEDO)<sup>47</sup> to suspend its oil deliveries to North Korea on November 14, 2002 and halt the construction of LWRs on November 21, 2002.

The rising tensions in the Korean peninsula and suspicions against North Korea's nuclear weapons program eventually culminated in Pyongyang's withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on January 10, 2003, which Pyongyang claimed effective as of the following day. The announcement also followed North Korea's rejection of guidelines submitted by the International Atomic Energy Agency (IAEA) on January 6, 2003 to "readmit" its nuclear monitors. Pyongyang's withdrawal from the NPT also declared the Agreed Framework as void. North Korea was the first state ever to withdraw from the NPT.

North Korea's withdrawal from the NPT sparked concerns and criticisms from the international community including China. For instance, after Pyongyang's announcement, Chinese Foreign Ministry spokeswoman Zhang Qiyue proclaimed, "We are concerned about the DPRK's announcement to withdraw from the treaty, as well as consequences possibly caused by the withdrawal."<sup>48</sup> Chinese President Jiang Zemin also proposed in January 2003 that the U.S. and

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<sup>46</sup> Kongdan Oh and Ralph C. Hassig, "North Korea: A Rogue State."

<sup>47</sup> The Korean Peninsula Energy Development Organization (KEDO) was founded in March 1995 by the U.S., South Korea and Japan as a follow-up to the 1994 Agreed Framework.

<sup>48</sup> "Nation's Reaction to DPRK's NPT Withdrawal," *Xinhua News Agency*, 11 January 2003, accessed at

North Korea hold bilateral dialogues to reassess the situation and “end their tense nuclear standoff” in order to ease the tensions of the Korean peninsula.<sup>49</sup> The U.S. launched the Proliferation Security Initiative (PSI) on May 31, 2003 to limit North Korea’s cross-border trafficking of WMD, but the mechanism was limited in addressing the North Korea problem due to its lack of surveillance over the Sino-North Korean border area.<sup>50</sup>

Overall, North Korea’s withdrawal from the NPT served as a pivotal moment in history which marked the beginning of Pyongyang’s explicit nuclear proliferation and defiance against international customs. Many scholars state that North Korea’s withdrawal from the NPT in 2003 showed the regime’s fundamental non-compliance of the treaty. By successfully withdrawing from the NPT, Pyongyang not only disrespected an international treaty, but also jeopardized the treaty’s overall effectiveness in establishing an effective multilateral mechanism for preventing nuclear proliferation. North Korea’s actions thus not only surprised the international community, but also regional actors including China.

China’s heightened border control efforts during the first period of intensified crackdowns from *March 2002 to January 2003* align with Beijing’s rising concerns of North Korea’s potential regime collapse. For the first time, international treaties proved ineffective in constraining Pyongyang from nuclear proliferation. In China’s perspective, the event showed that Pyongyang could act independently from Beijing in aggravating the regional security dynamics. Without having had much influence in North Korea’s overall decision to withdraw from the NPT, China feared that the rise in international criticisms against the regime may be followed by a potential

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<http://www.china.org.cn/english/international/53298.htm>

<sup>49</sup> Ibid.

<sup>50</sup> Wade L. Huntley, “Rebels Without a Cause: North Korea, Iran and the NPT,” *International Affairs* 82, no. 4, (2006): 726.

regime collapse. As a result, the first period of intensified crackdowns reflects China's security uncertainties and efforts to implement preemptive measures ahead of regional destabilization. High numbers of arrest, detainment and repatriation of North Koreans by China however, quickly subsided after the resumption of Sino-North Korean bilateral and other multilateral engagements with North Korea.

### **Interim Period I: North Korea Amidst Negotiations (2003-2012)**

North Korea's withdrawal from the NPT in January 2003 increased tensions within the region and altered the existing security environment on the Korean Peninsula. The mutual security challenge posed by North Korea, however, brought upon the first interim period from *February 2003 to January 2012* in China's border control efforts. The period was marked by engagements and increased multilateral dialogues among regional stakeholders such as the U.S. and China. The series of Six-Party Talks (SPT) and China's active integration of North Korea within the regional dialogues as the primary mediator were especially critical in alleviating tensions throughout the first interim period.

The Six-Party Talks (SPT) began in August 2003 and were hosted by China. The parties to the Talks included China, Japan, the U.S., Russia and North and South Korea and were aimed at dismantling North Korea's nuclear program. Among the six parties, China was at the forefront of international and regional-level negotiations. Beijing resumed its diplomatic engagements with North Korea immediately following Pyongyang's withdrawal from the NPT, when the two countries held high-level talks at the Sino-North Korean border in March 2003. At the meeting, then Chinese vice-premier Qian Qichen convinced Kim Jong-il and North Korean diplomats to

participate in a trilateral forum with the U.S. the following April.<sup>51</sup> Beijing continued to mediate between Washington and Pyongyang leading up to the first round of SPT from August 27 to 29 and was the first party to suggest the second round of the SPT beginning in October 2003. Overall from August 2003 to late 2008, the six parties held a total of six rounds of SPT's in hopes to steer North Korea back towards the NPT.<sup>52</sup>

While the SPT's have been at a stalemate since 2008, they have helped to produce semi-tangible results in North Korea's denuclearization throughout the seven years they have been in session. One of the most influential documents that the SPT's produced was the Joint Statement and North Korea's first denuclearization agreement on September 19, 2005. The Joint Statement included six articles including North Korea's promise to "abandon all nuclear weapons and nuclear programs and return to the NPT as soon as possible."<sup>53</sup> During the sixth round of the talks in December 2006, the six parties then agreed to formally implement the joint statement in February 2007. The SPT's also led to an initial recession in North Korean provocations. For example, while Pyongyang tested three cruise missiles in 2003, there was only one instance of a short-range ballistic missile (SRBM) test in 2004, and two SRBM tests in 2005.<sup>54</sup>

In addition, while the SPT's and North Korea's progress towards denuclearization were discontinued in 2009, Kim Jong-il continued to pursue diplomatic engagements with the U.S.,

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<sup>51</sup> Michele Acuto, "Not Quite the Dragon: A 'Chinese' View on the Six Party Talks, 2002-8," *The International History Review* 34, no. 1, (2012): 5.

<sup>52</sup> The chronology of the Six Party-Talks is as follows: First Round (August 27-29, 2003); Second Round (February 25-28, 2004); Third Round (June 23-26, 2004); Fourth Round (July 26-August 7, 2005); Fifth Round (November 9-11, 2005); Sixth Round (December 18-22, 2006).

<sup>53</sup> United States Department of State, *Joint Statement of the Fourth Round of the Six-Party Talks*, (19 September 2005), accessed at <https://www.state.gov/p/eap/regional/c15455.htm>

<sup>54</sup> Ian Williams, "North Korean Missile Launches & Nuclear Tests: 1984-Present," *Missile Threat*, Center for Strategic and International Studies, (20 April 2017), accessed at <https://missilethreat.csis.org/north-korea-missile-launches-1984-present/>

China, and other parties to the talks. Throughout his administration, Kim Jong-il held a total of 175 negotiations with the U.S. alone, which was nearly seven times more than that his father, Kim Il-sung (26). Therefore, while Kim Jong-il engaged in an increased number of provocations (68) compared with that of his predecessor (10), the higher ratio of negotiations to provocations assisted his strategy in wavering between negotiations and provocations.<sup>55</sup> Kim Jong-il's diplomatic strategy kept the international community at its feet in hopes that North Korea may decide to return to the NPT and forgo its nuclear program.

China, in particular, was more inclusive of North Korea in its foreign policy during the interim period. An exemplary case was Beijing's response to the Cheonan Incident on March 26, 2010. After both South Korean and other international sources confirmed that a South Korean navy vessel by the name of Cheonan was sunken by a North Korean torpedo, Seoul halted all of its trade and diplomacy with Pyongyang. The U.S. and UN Security Council also condemned North Korea and demanded that the regime to adhere to the Korean Armistice Agreement.<sup>56</sup> China, on the other hand, only responded to the event a month later without formally acknowledging or endorsing the investigative findings. Instead of joining other countries in pointing fingers at North Korea, China chose to remain neutral, only voicing concerns of regional stability and peace. China's tacit support for North Korea reflected its efforts to shield and protect the North Korean regime<sup>57</sup> and maintain the diplomatic atmosphere it had nurtured with North Korea throughout the first interim period.

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<sup>55</sup> Center for Strategic and International Studies, "U.S.-DPRK Negotiations and North Korean Provocations," *Beyond Parallel*, (2 October 2017), accessed at <https://beyondparallel.csis.org/dprk-provocations-and-us-negotiations/>

<sup>56</sup> United Nations Security Council, "Security Council Condemns Attack on Republic of Korea Naval Ship 'Cheonan', Stresses Need to Prevent Further Attacks, Other Hostilities in Region," Press Release, SC/9975, (9 July 2010), accessed at <https://www.un.org/press/en/2010/sc9975.doc.htm>

<sup>57</sup> David Kang, "China and the Cheonan Incident," 38 *North*, U.S.-Korea Institute at SAIS, Johns Hopkins University, (2 June 2010), accessed at <https://www.38north.org/2010/06/china-and-the-cheonan-incident/>

Overall, despite the subsequent breakdown of the SPT's, China was relatively stabilized in its engagements with North Korea during the first interim period. Beijing was able to maintain diplomatic contacts with Pyongyang as well as manage international-level dialogues with the regime at the forefront of various negotiations. While the first interim period also saw North Korea's first two nuclear tests in October 2006 and May 2009, these largely occurred with various dialogues still in session and had been in part, anticipated as a result of Pyongyang's withdrawal from the NPT in 2003. The first interim period continued until Kim Jong-il's death on December 19, 2011 which signaled the rise of a new leader in North Korea and an introduction of new uncertainties to the regional security environment.

### **Period II: Kim Jong-un's Initial Defiance as a New Leader (2012)**

Kim Jong-un ascended as the leader of the Kim regime following Kim Jong-il's death on December 19, 2011. Since then, he has taken on various titles to demonstrate his unchallenged authority in North Korea. Kim Jong-un was deemed the "Supreme Commander" on December 25, 2011, the supreme leader of the Korean Workers' Party (KWP) by December 28, and on April 11, 2013, was named first chairman of the National Defense Commission—the position of highest authority in North Korea—and first secretary of the KWP. And while many hoped that the young North Korean leader would open up North Korea to new diplomatic and economic opportunities, the first few months of his new administration proved otherwise.

Contrary to initial concerns, Washington and Pyongyang held a series of bilateral meetings in late 2011 and early 2012 throughout North Korea's leadership transition. Following the meetings, the two nations settled on a so-called "Leap Day Agreement" in Beijing, China, on



February 29, 2012. In the bilateral agreement, the U.S. promised to provide 240,000 metric tons of food aid to North Korea in exchange for strict monitoring of Pyongyang’s nuclear facilities and a moratorium on its nuclear and missile testing. The Obama administration also specified that “any missile testing, including under the guise of a peaceful satellite launch, would violate the terms of the agreement.”<sup>58</sup> This agreement was regarded initially as a successful diplomatic outreach to North Korea’s new leader as well as a valuable opportunity for assessing Kim Jong-un’s intentions.

Nearly two weeks following the agreement on March 16, 2012, however, North Korea announced that it would launch a satellite to honor the centennial anniversary of the birth of Kim Il-sung, its founding leader. And during the celebration parade on April 15, 2012, Pyongyang showcased six intercontinental ballistic missiles (ICBM). North Korea also launched a Taepodong-2 missile by the name of “Unha-3” on April 13, 2012, which landed in the sea about 165 kilometers west of South Korea.<sup>59</sup> Pyongyang’s failure to abide by the conditions of the “Leap Day Agreement” led the U.S. to ultimately suspend its plans of food delivery and nullify the preceding diplomatic arrangements. Likewise, the United Nations Security Council also condemned North Korea and demanded that the regime abide by Security Council Resolutions 1718 (2006) and 1874 (2009).<sup>60</sup>

The events leading up to and following the “Leap Day Agreement” between the U.S. and North Korea represented Kim Jong-un’s first explicit defiance of a bilateral agreement with the U.S. as the new leader of the regime. By showcasing missile capabilities and launching a satellite in orbit, Kim Jong-un disappointed the optimistic hopes that the international community held in

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<sup>58</sup> Emma Chanlett-Avery and Ian E. Rinehart, “North Korea: U.S. Relations, Nuclear Diplomacy, and Internal Situation,” *CRS Report for Congress*, R41259, Congressional Research Service, (4 January 2013), 9.

<sup>59</sup> *Ibid.*, 9-10.

<sup>60</sup> Davenport, “Chronology of U.S.-North Korean Nuclear and Missile Diplomacy.”

witnessing a leadership transition in North Korea. These initial events showed that Kim Jong-un was more in line with his father's agenda of nurturing North Korea into a "*kangsong daeguk*" (strong and prosperous nation) via military means rather than diplomatic engagement.

The events surrounding the "Leap Day Agreement" were nonetheless reflected by China's heightened border control efforts. Since the bilateral meeting between the U.S. and North Korea had been held in Beijing ahead of the agreement, China was much involved and attentive about the agreement's proceedings. Both the success and failure of the agreement would have heightened fears of Beijing's sense of regional instability. On the one hand, the resulting failure of the agreement raised China's fears of regional instability as international criticisms against North Korea increased while the North Korean regime was still undergoing a period of domestic leadership transition.<sup>61</sup> On the other hand, the success of the agreement also jeopardized China's relative stance in multilateral dialogues<sup>62</sup> since it would lead to a restoration of U.S.-DPRK negotiations at a time when Sino-North Korean high-level contacts had still not been administered. In fact, China did not explicitly condemn North Korea for launching its Taepodong-2 missile on April 12, which had also led to the disintegration of the "Leap Day Agreement."<sup>63</sup>

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<sup>61</sup> The second period subsided within two and a half months and by April 18, 2012. There are a couple explanations. First, there was a large time gap between North Korea's missile launchings in April 2012 and its announcement of a next satellite launch in December. The second period of intensified crackdowns was also the only instance when South Korea formally requested China to halt its repatriation of North Koreans in high-level bilateral dialogues. For more information, see: Gwang-lip Moon, "China Suspends Repatriation of Defectors: Yomiuri," *Korea JoongAng Daily*, 9 April 2012, accessed at <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=2951696>

<sup>62</sup> If the Leap Day Agreement had succeeded, China was to prepare the "pre-steps" for reopening the Six-Party Talks which had been at a halt since 2008. For more information, see: Nina Hachigian, "The Leap Day Deal with North Korea," Center for American Progress, (1 March 2012), accessed at <https://www.americanprogress.org/issues/security/news/2012/03/01/11320/the-leap-day-deal-with-north-korea/>

<sup>63</sup> Hitoshi Tanaka, "After the Launch: Moving Forward with North Korea," *East Asia Forum*, 3 May 2012, accessed at <http://www.eastasiaforum.org/2012/05/03/after-the-launch-moving-forward-with-north-korea/#more-26129>

Overall, throughout the second period of intensified crackdowns from *February to April 2012*, China shared a similar position of uncertainty as other regional stakeholders such as the U.S. about North Korea's new leader. Unlike the past when it had been at the forefront of international discussions on the North Korea problem, such as in the earlier rounds of the SPT's, China was unable to establish the same level of contacts with the new North Korean administration under Kim Jong-un. For the first six years of his rule, Kim Jong-un did not pay any foreign visits including that to China, which was an anomaly for a North Korean leader. Kim Jong-un also purged various senior officials within the North Korean government who had ties with China during his first few months in office.<sup>64</sup> Without the ability to play the role of a mediator amidst heightened international criticisms against the North Korean regime under Kim Jong-un, China's fears of a potential regime collapse increased during this time.<sup>65</sup>

### **Interim Period II: North Korea Under “Strategic Patience” (2012-2017)**

Following the failure of the “Leap Day Agreement,” Kim Jong-un continued to develop WMD and exercise missile and nuclear tests. Throughout the second interim period from *May 2012 to June 2017*, Kim Jong-un conducted a total of 75 missile tests and three nuclear tests (February 2013, January 2016, September 2016), both of which were more than those of his two predecessors—Kim Il-sung and Kim Jong-il—combined.<sup>66</sup> Furthermore, high-level diplomatic

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<sup>64</sup> John Hudson and David Francis, “Why Did Sanctions Fail Against North Korea?”, *Foreign Policy*, 9 September 2016, accessed at <http://foreignpolicy.com/2016/09/09/why-did-sanctions-fail-against-north-korea/>

<sup>65</sup> China continued to hold backdoor engagements with the new North Korean administration under Kim Jong-un. On April 19, 2012, the U.S confirmed that North Korea had received assistance from China in its missile development. Kim Young-il—a leading secretary of the KWP in North Korea—also paid a visit to Beijing from April 20 to 24, 2012 but the meeting did not result in any agreements. For more information, see: Hong Nack Kim, “China-North Korea Relations after Kim Jong-il,” *International Journal of Korean Studies* 17, no.1, (2013): 3.

<sup>66</sup> Nuclear Threat Initiative, “The CNS North Korea Missile Test Database,” (4 May 2018), accessed at

negotiations remained at a stalemate between China and North Korea as Kim Jong-un did not make any overseas visits until early 2018. However, the preceding period of intensified crackdowns by China was rather short-lived and Beijing soon entered a rather prolonged interim period from May 2012 to June 2017. During this period, signs of increased border control efforts by China were not as readily detected by neither international institutions nor the media.

One of the most important factors that explain China's mediated border control efforts during this time is the relative lack of international pressure on North Korea, especially from the U.S. While the failure of the "Leap Day Agreement" increased Beijing's initial fears of rising international pressure on the North Korean regime, Washington's North Korea policy based on "strategic patience" helped to alleviate its concerns of regional instability. Washington's policy of "strategic patience," which was pursued by the Obama's administration (January 2009-January 2017), advocated for restraining North Korea without taking actions that would provoke or administer regime change. As a result, while the U.S. continued to administer and gradually increase economic sanctions on North Korea, negotiations between Washington and Pyongyang did not produce meaningful results in denuclearization.

Furthermore, even after the failure of the "Leap Day Agreement," little pressure was placed on China to partake in the international sanctions regime to pressure North Korea. Instead of the U.S. taking the leading role in coordinating sanctions and dialogues on North Korea, China participated in the UN sanctions and attempted to re-open the Six-Party Talks on its own. For example, following North Korea's third nuclear test on February 12, 2013, Beijing adopted the UN Security Council (UNSC) Resolution 2094, which imposed further restrictions on materials

related to weapons of mass destruction (WMD) as well as prohibited luxury goods.<sup>67</sup> These actions countered its past behavior such as when Beijing had expressed reservations in implementing the UNSC Resolution 1718 in October 2006. China's adoption of UNSC Resolution 2094 also led to further domestic-level efforts including the closing of trade with North Korean banks and publications of banned exports to North Korea by state-owned institutions.

While Sino-North Korean dialogues remained at a halt, China attempted to reengage with other regional actors by leading discussions with the U.S. and South Korea throughout 2013 and 2014. For example, Chinese president Xi Jinping met with his U.S. and South Korean counterparts separately in June 2013 to suggest for a reopening of the SPT.<sup>68</sup> Following the June 2013 China-ROK Summit, Xi Jinping "made history" by visiting South Korea before North Korea in June 2014.<sup>69</sup> After China's "Peripheral Diplomatic Work Conference" in October 2013, "a new model of Korea-China Relations" (*xinxing hanzhong guanxi*) was also agreed upon by the China and South Korea as the new framework for cooperation between the two nations.<sup>70</sup> Furthermore, Seoul and Beijing reached an FTA agreement by November 2014, enabling for increased economic interdependence between the two countries.

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<sup>67</sup> United Nations Security Council, *Resolution 2094, Adopted by the Security Council at its 6932nd Meeting*, S/RES/2094, (7 March 2013), accessed [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2094\(2013\)](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2094(2013))

<sup>68</sup> Hochul Lee, "Rising China and the Evolution of China-North Korea Relations," *The Korean Journal of International Studies* 12, (2014): 107.

<sup>69</sup> Jin Park, "Korea Between the United States and China: How Does Hedging Work?," Korea Economic Institute, (2015), accessed at [http://keia.org/sites/default/files/publications/korea\\_between\\_the\\_united\\_states\\_and\\_china.pdf](http://keia.org/sites/default/files/publications/korea_between_the_united_states_and_china.pdf), 63.

<sup>70</sup> Jaeho Hwang, "The ROK's China Policy Under Park Geun-hye: A New Model of ROK-PRC Relations," Report, Brookings Institute, (14 August 2014), accessed at <https://www.brookings.edu/research/the-roks-china-policy-under-park-geun-hye-a-new-model-of-rok-prc-relations/>

Overall, China's willingness to engage in sanctions against North Korea and lead dialogues with the U.S. and South Korea suggest that Beijing felt relatively stable in relation to its regional security during the second interim period (*May 2012 to June 2017*). Even with continued North Korean provocations and lack of Sino-North Korean communication, such stability was made possible due to the Obama administration's "strategic patience" on North Korea. The relative reserve by which the U.S. acted upon North Korea eased the perceived international pressure on North Korea and enabled China to lead North Korea policy.<sup>71</sup>

### **Period III: North Korea Amidst "Fire and Fury" (2017-2018)**

The summer of 2017 was a critical turning point for Kim Jong-un in showcasing North Korea's latest nuclear and missile capabilities to the international community. His New Year's Address in 2017 contained more direct and explicit references to nuclear tests and the launch of ballistic missiles which than his speech in 2016. Kim Jong-un highlighted North Korea's nuclear capabilities as the banner of Pyongyang's defense policy and stated that he would utilize them to "cope with the imperialists' nuclear war threats."<sup>72</sup>

The initial missile test conducted by North Korea in the earlier months of 2017 however, was not successful. On March 22, 2017, North Korea fired a missile near the country's east coast

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<sup>71</sup> An action which China did identify as a threat to its regional stability, however, was July 2016 agreement between the U.S. and South Korea to deploy the Terminal High Altitude Area Defense (THAAD) as a defense against North Korean missiles. Yet, the issue was quickly overwhelmed by South Korea's domestic issues surrounding former president Park Geun-hye's political scandal and her eventual impeachment in March 2017. Although portions of the THAAD system were delivered to South Korea throughout March and April 2017, South Korean President Moon Jae-in—who was elected in May 2017—suspended further THAAD deployment in early June. It was by the end of July, that the remaining four THAAD launchers were delivered to South Korea following North Korea's second intercontinental ballistic missile (ICBM) test on July 28, 2017.

<sup>72</sup> Leif-Eric Easley, "North Korean Identity as a Challenge to East Asia's Regional Order," *Korean Social Science Journal* 44, no. 1, (2017): 62.

which exploded within seconds of launching. The missile launch had been preceded by a rocket engine test on March 18, 2017, which Kim Jong-un referred to as a “great leap forward” in Pyongyang’s missile program. While the missile test in March resulted in failure, these subsequent provocations implied North Korea’s resolution to continue its development of weapons of mass destruction (WMD). In response to Pyongyang’s defiance, the Chinese Foreign Ministry called on the U.S. and South Korea to “exercise restraint” and described the situation as “already very tense, almost approaching a tipping point.”<sup>73</sup>

North Korean provocations culminated in July when Pyongyang tested two intercontinental ballistic missiles (ICBMs) on July 4 and July 28, 2017 believed to possess the capacity to reach the U.S. North Korea stated that the ICBM was not only maximum in range, but also carried a large and heavy nuclear warhead. This latest development in North Korea’s missile capabilities prompted international fear of potential military engagements between Pyongyang and Washington. President Trump reacted to Pyongyang’s missile tests with an intense rhetoric of “fire and fury” on August 8, reiterating Washington’s North Korea strategy of “maximum pressure and engagement.”<sup>74</sup> Unwilling to back down, North Korea responded by threatening to test the Hwasong-12 intermediate-range missile near the U.S. territory of Guam.<sup>75</sup>

Following North Korea’s ICBM tests, President Trump explicitly targeted China for its lack of cooperation in international efforts to pressure North Korea. In response, the Chinese

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<sup>73</sup> Ministry of Foreign Affairs, People’s Republic of China, “Foreign Ministry Spokesperson Hua Chunying’s Regular Press Conference on March 22,” Press Release, 22 March 2017, accessed at [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2511\\_665403/t1447805.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1447805.shtml)

<sup>74</sup> United States Department of State, “Joint Statement by Secretary of State Rex Tillerson, Secretary of Defense James Mattis, Director of National Intelligence Dan Coats,” 26 April 2017, accessed at <https://www.state.gov/r/pa/prs/ps/2017/04/270464.htm>

<sup>75</sup> “Kim Jong Un Inspects KPA Strategic Force Command,” *Korean Central News Agency*, 15 August 2017, accessed at <http://www.kcna.co.jp/item/2017/201708/news15/20170815-06ee.html>

Foreign Ministry issued a statement on July 29, addressing the severity of the issue and reconfirming that “China is opposed to North Korea's launch activities in violation of UN Security Council resolutions and against the will of the international community.”<sup>76</sup> In order to impose further economic restrictions on North Korea, the UN Security Council voted unanimously to adopt Resolution 2371,<sup>77</sup> showing “a strong, united step toward holding North Korea accountable for its behavior.”<sup>78</sup> China also explicitly condemned North Korea’s missile launch on August 29, 2017 through a press briefing and called for further measures to be taken to restrain Pyongyang from engaging in future provocations.<sup>79</sup>

North Korea’s provocations culminated in its sixth nuclear test on September 3, 2017 (yield of +140kt), which was fourteen times more powerful than its previous nuclear test in September 2016 (yield of 10kt).<sup>80</sup> In response, the United Nations once again unanimously agreed to implement Resolution 2375 on September 11, 2017, which has been the UNSC’s toughest sanctions against North Korea to date.<sup>81</sup> Most importantly, the nuclear test prompted China’s support for the newly imposed sanctions as the Chinese Foreign Ministry announced on September

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<sup>76</sup> Ministry of Foreign Affairs, People’s Republic of China, “Foreign Ministry Spokesperson Gu Shuang’s Remarks on North Korea’s Re-launching of Ballistic Missiles,” 29 July 2017, accessed at [http://www.mfa.gov.cn/web/fyrbt\\_673021/t1481054.shtml](http://www.mfa.gov.cn/web/fyrbt_673021/t1481054.shtml)

<sup>77</sup> United Nations Security Council, *Resolution 2371, Adopted by the Security Council at its 8019<sup>th</sup> Meeting, S/RES/2094*, (5 August 2017), accessed at [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2371%282017%29](http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2371%282017%29)

<sup>78</sup> Nimrata Haley, “Explanation of Vote at the Adoption of UN Security Council Resolution 2371 Strengthening Sanctions on North Korea,” Remark at the United Nations Security Council Meeting, United States Mission to the United Nations, 5 August 2017, accessed at <https://usun.state.gov/remarks/7923>

<sup>79</sup> Ministry of Foreign Affairs, People’s Republic of China, “Foreign Ministry Hua Chunying’s Regular Press Conference on August 29, 2017,” 29 August 2017, accessed at [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2511\\_665403/t1488261.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1488261.shtml)

<sup>80</sup> Center for Strategic and International Studies, “Missiles of North Korea,” *Missile Threat*, Missile Defense Project, (14 June 2018), accessed at <https://missilethreat.csis.org/country/dprk/>

<sup>81</sup> United Nations Security Council, *Resolution 2375, Adopted by the Security Council at its 8042<sup>nd</sup> Meeting, S/RES/2375*, (11 September 2017), accessed at [https://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2375%282017%29](https://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2375%282017%29)



12 that China would “uphold the international non-proliferation regime.”<sup>82</sup> In addition, following Pyongyang’s missile test on November 28, 2017, Beijing showed further compliance by agreeing to UNSC Resolution 2397.<sup>83</sup> China’s deputy U.N. ambassador Wu Haitao also noted Beijing’s fears of tensions “spiraling out of control.”<sup>84</sup>

Overall, China’s cooperation in the international sanctions regime demonstrated the lack of leverage that Beijing had in shaping its policy towards Pyongyang. Unlike previous instances when Beijing denounced U.S. sanctions on North Korean trade, China’s willingness to comply with UNSC resolutions demonstrated its recognition of North Korean provocations as a threat to regional security. Without formal diplomatic contacts and increasing international pressure, China did not possess the capacity to direct its own North Korea policy. In response, from July 2017 to the earlier months of 2018, Beijing intensified its crackdowns on North Koreans near the Sino-North Korean border from fears of destabilization on the Korean Peninsula.<sup>85</sup>

While provocations seemed continue throughout the initial months of 2018, North Korea’s diplomatic course has since then, taken a dramatic shift. Kim Jong-un’s new charm offensive embarked with a visit to China and his first meeting with President Xi Jinping on March 27, 2018. In addition to serving as a preparatory step for Kim Jong-un’s meeting with President Trump on June 12, the visit helped to reconfirm Sino-North Korean relations and reestablish bilateral high-

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<sup>82</sup> Ministry of Foreign Affairs, People’s Republic of China, “Foreign Ministry Spokesperson Geng Shuang’s Remarks on the United Nations Security Council’s Adoption of Resolution 2375,” 12 September 2017, accessed at [http://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2535\\_665405/t1492131.shtml](http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2535_665405/t1492131.shtml)

<sup>83</sup> United Nations Security Council, *Resolution 2397, Adopted by the Security Council at its 8152<sup>nd</sup> Meeting*, S/RES/2397, (22 December 2017), accessed at [https://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/2397%282017%29](https://www.un.org/ga/search/view_doc.asp?symbol=S/RES/2397%282017%29)

<sup>84</sup> Rodrigo Campos and Hyonhee Shin, “U.N. Security Council Imposes New Sanctions on North Korea over Missile Test,” *Reuters*, 22 December 2017, accessed at <https://www.reuters.com/article/us-northkorea-missiles/u-n-security-council-imposes-new-sanctions-on-north-korea-over-missile-test-idUSKBN1EG0HV>

<sup>85</sup> See *Appendix C*.

level contacts. The China-DPRK summit was also significant in that it was Kim Jong-un's first foreign trip since assuming power in 2011. Following his diplomatic shift, Kim Jong-un announced a moratorium on nuclear and missile tests on April 21, with the new national goal of focusing on economic development.<sup>86</sup> During his summit with South Korean President Moon Jae-in on April 27, the North Korean leader also reaffirmed his commitment towards inter-Korean reconciliation and bringing an end to the Korean War.<sup>87</sup> Along with eased tensions on the Korean Peninsula and reaffirmed Sino-North Korean relations, the third period of crackdowns ended when *Radio Free Asia* reported that 30 North Koreans had been released by Chinese authorities in mid-April.<sup>88</sup>

## V. Conclusion

The North Korean refugee issue has garnered more attention from both policymakers and scholars in recent years due to the increased international interest in human rights. However, it is difficult to devise specific policies that are catered toward the border crossers due to the lack of information on North Korea. It is even more difficult to analyze the human rights situation of North Koreans in China as both Beijing and Pyongyang refrain from releasing such information to the public.

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<sup>86</sup> Sang-Hun Choe, "North and South Korea Set Bold Goals: A Final Peace and No Nuclear Arms," *New York Times*, 27 April 2018, accessed at <https://www.nytimes.com/2018/04/27/world/asia/north-korea-south-kim-jong-un.html>

<sup>87</sup> Blue House, Republic of Korea, *Panmunjom Declaration for Peace, Prosperity and Unification of the Korean Peninsula* (*한반도의 한반도의 평화와 평화와 번영, 통일을 위한 판문점 판문점 선언*), (27 April 2018), accessed at <https://www1.president.go.kr/articles/3138>.

<sup>88</sup> *Radio Free Asia*, 2018, as referenced by "China Releases 30 N. Korean Defectors: Report," *Yonhap News Agency*, 17 April 2018, accessed at <http://english.yonhapnews.co.kr/northkorea/2018/04/17/0401000000AEN20180417003300315.html>

This paper has built upon the existing literature on North Koreans in China with a specific focus on Beijing's refugee policy orientation. In particular, it has addressed Beijing's motivations for increasing its surveillance near the Sino-North Korean border at certain times throughout history. Periods of China's intensified crackdowns on North Korean citizens—such as *March 2002 to January 2003*, *February to April 2012*, and *July 2017 to April 2018*—have been identified by international organizations and the media with the help of local Chinese and North Korean witnesses. Future research on media trends in reporting cases of arrest, detainment, and refoulement/repatriation of North Korean citizens would also help to determine other external variables which may influence why these reports surface more so at particular times than others.

In an effort to contextualize the identified periods of intensified crackdowns, this paper has analyzed various geo-political factors surrounding China's regional stability. Indeed, what this paper has shown is that China's regional political and diplomatic conditions—primarily those related to North Korea—throughout the three identified periods of intensified crackdowns follow pivotal moments of North Korean provocations. The first period of *March 2002 to January 2003* demonstrated heightened tensions on the Korean peninsula as North Korea demonstrated an unyielding commitment to nuclear proliferation and ultimately withdrew from the Non-Proliferation of Nuclear Weapons (NPT) on January 10, 2003. The second period of *February to April 2012* occurred amidst a rapid North Korean leadership transition from Kim Jong-il to the Kim Jong-un, who proved to be an unpredictable and defiant young leader during his initial months by challenging a diplomatic agreement with the United States. The third period of *July 2017 to April 2018* coincided with North Korea's increased missile and nuclear tests with weapons of higher capacities, generating a crisis on the Korean peninsula.

The variable of North Korean provocations adds an interesting perspective to China's existing views on its domestic and regional stability. Beijing's domestic narrative highlights how China perceives North Korean refugees as a source of threat to the existing status quo; an influx of migrants could destabilize its borders and other surrounding areas by increasing health risks, adding to unemployment problems, and increasing the possibility of uprisings in ethnically Korean autonomous regions. North Korean provocations therefore heighten China's fear of instability as elevated tensions on the Korean peninsula lead to increased possibilities of a potential regime collapse in North Korea and respectively, an influx of cross-border refugees into Chinese territory.

One might inquire why China did not intensify its crackdowns on North Korean refugees at other times of North Korean provocations. This paper has argued that the three identified periods are characterized by "pivotal" provocations that differ from other cases by following changes in Pyongyang's foreign policy behavior and the existing Sino-North Korean relations. In fact, intensified crackdowns occur when such pivotal provocations are accompanied by the rise in international criticisms towards North Korea and lack of Sino-North Korean communication and cooperation. This is because high external pressure towards a potential regime collapse in North Korea cannot be effectively mitigated by China due to limited Sino-North Korean bilateral cooperation. Therefore, it is the combination of pivotal provocations, high international pressure, and low Sino-North Korean contacts that distinguishes the contextual elements of the three periods of intensified crackdowns from those of other cases of regional instability, such as in the aforementioned interim periods.

Overall, this paper has aimed to provide a political analysis of North Korean refugees in China. While it is important to be aware of the refugees' socio-economic and legal conditions,

understanding the environmental factors that incur heightened border control efforts by China can help the international community plan for these events. By recognizing “pivotal” North Korean provocations as a critical variable that leads to intensified crackdowns on North Koreans by China, detrimental human rights violations could be avoided in the future. For instance, policies could be implemented to disperse or redirect North Korean refugees to other surrounding nations such as South Korea during times of North Korean provocations and elevated tensions on the Korean peninsula. Regional and international agreements facilitated by inter-state dialogues and track II diplomacy would help devise contingency plans for refugees escaping North Korea. While it may be difficult to persuade countries such as North Korea and China to abide more closely to existing international treaties on human rights, it is comparatively more feasible for other human rights abiding nations to take preemptive measures ahead of China’s intensified crackdowns on North Korean refugees.

## Appendices

This paper refrains from stating the total number of arrests, detainment and refoulement of North Korean refugees by China due to data limitation. Instead, it provides a comprehensive list of individually reported cases that have contributed to the international community's identification of an *intensified crackdown* (see *Figure 1*).

### **Appendix A: Data Compilation for Period I (March 2002-January 2003)**

While it is generally difficult to identify specific trends in the number of refoulement cases, publicly accessible data is even more scarce for years before the summoning of the UN Commission of Inquiry on North Korea in 2013. Non-partisan organizations such as the North Korea Freedom Coalition (NKFC) make publicly available lists of North Korean refugees “known to have been seized by the Chinese authorities” that have been compiled by the Defense Forum Foundation (DFF) with the help of other non-governmental organizations. Yet even with such cooperative networks in place, “the list is a record of just a small fraction of those incidences that have been reported.”<sup>89</sup> The first period of *intensified crackdown* from March 2002 to January 2003 has been supported by various international media sources and confirmed by international organizations and government administrations. These sources often receive data from local Chinese or Korean affiliates who are either in direct or indirect contact with the refugees.

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<sup>89</sup> NKFC relies on information provided by the Seoul-based Citizens Coalition for Human Rights of Abductees and North Korean Refugees, the International Coalition to Save North Koreans, and other organizations. Their list has been referenced by the U.S. House Foreign Affairs Committee, the Congressional Executive Commission on China, and the Commission on International Religious Freedom for Congressional testimonies. For more information, see: North Korea Freedom Coalition, *2015 Update: The “List” of North Korean Refugees & Humanitarian Workers Seized by Chinese Authorities*, (24 September 2015), accessed at [http://nkfreedom.org/UploadedDOcuments/2015.09.24\\_THELIST2015Sept.pdf](http://nkfreedom.org/UploadedDOcuments/2015.09.24_THELIST2015Sept.pdf).

The first period is characterized by the longest duration of 11 months and requires a compilation of diverse data. Along with the 25 escapees who had sought refuge in the Spanish Embassy in Beijing on March 25, 2002, around 60 North Koreans are believed to have gained political asylum in foreign consulates and embassies in Shenyang and Beijing for the year 2002.<sup>90</sup> These events consequently prompted China to tighten border control efforts and intensify its crackdown against the asylum seekers. To confirm the beginning of a crackdown, international media sources, organizations and government testimonies recognized in March 2002 that “Chinese officials [had] intensified their crackdown against both North Korean refugees and those international NGOs ... who are providing much needed services to the refugees in the border provinces of China.”<sup>91</sup>

One of the initial and most noteworthy arrests was when armed Chinese policemen violated the Vienna Convention on Consular Relations (or the diplomatic convention) by entering the Japanese Consulate in Shenyang to “grab” 5 North Koreans on May 8, 2002.<sup>92</sup> This incident not only marked the beginning of a long period of Chinese crackdown on North Koreans but also exacerbated Beijing’s foreign relations with Tokyo and increased diplomatic pressure from other countries. Since the event, over 100 escapees are believed to have been detained by Chinese security authorities in 2002.<sup>93</sup> In mid-May 2002, 70 North Korean refugees were arrested near the Heilongjiang Province in northeast China and 40 female escapees were detained in Shanghai and

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<sup>90</sup> Elisabeth Rosenthal, “North Koreans in China Now Live in Fear of Dragnet,” *New York Times*, 18 July 2002, accessed at <https://www.nytimes.com/2002/07/18/world/north-koreans-in-china-now-live-in-fear-of-dragnet.html>

<sup>91</sup> Felice Gaer, “Examining the Flight of Refugees: The Case of North Korea,” Senate Judiciary Committee Testimony by Felice Gaer, Commissioner of the United States Commission on International Religions Freedom, 1 June 2001, accessed at <https://www.gpo.gov/fdsys/pkg/CHRG-107shrg86829/pdf/CHRG-107shrg86829.pdf>

<sup>92</sup> Human Rights Watch, “The Invisible Exodus.”

<sup>93</sup> Chol-hwan Kang, “China Cracking Down on North Korean Refugees,” *Chosun Ilbo*, 3 June 2002, accessed at <http://www.hrw.org/news/2017/09/03/china-redoubling-crackdowns-fleeing-north-koreans>

Dalian while working in karaoke.<sup>94</sup> In an interview with the *New York Times*, an ethnic Korean Chinese responsible for sheltering North Korean refugees revealed that in the 2002 crackdowns, “7 [North Koreans that he housed had] been sent back,” or repatriated, which he considered “double the previous number sent home in the last four years.”<sup>95</sup>

After another 7 North Koreans were detained in Yanbian region of northeast China in December 2002, 10 more refugees were arrested in Jilin Province in January 2003.<sup>96</sup> On January 18, 2003, the international community was also notified of “the Boat People Incident,” in which 48 North Koreans were seized in Yantai by Chinese security services as they were about the board the boat heading towards third destinations.<sup>97</sup> Organizations such as Doctors Without Borders (MSF) have referred to this incident as “[the] most revealing” in that “it unveils the distress of the North Korean refugee population in China and the urgent necessity to provide them assistance.”<sup>98</sup> The North Korea Freedom Coalition was able to identify some of the 48 refugees who were arrested in the incident, with one escapee being listed as “believed to have been forcibly repatriated to North Korea in October, 2004.”<sup>99</sup> Overall, heightened arrests and detainment of refugees, accompanied with the placement of around 150,000 additional Chinese troops along the China-North Korean border areas marked the months from March 2002 to January 2003 as one of the harsher and longer Chinese crackdowns against North Koreans.<sup>100</sup>

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<sup>94</sup> Kang, “China Cracking Down on North Korean Refugees.”

<sup>95</sup> Rosenthal, “North Koreans in China Now Live in Fear of Dragnet.”

<sup>96</sup> John Pomfret, “China Cracks Down on N. Korean Refugees,” *Washington Post*, 22 January 2003, accessed at <https://www.washingtonpost.com/archive/politics/2003/01/22/china-cracks-down-on-n-korean-refugees/057234e8-6b47-4852-a31a-47ec533bec71/>

<sup>97</sup> Ibid.

<sup>98</sup> Doctors Without Borders, “Urgent Appeal for Protection of North Korean Refugees in China,” Press Release, (18 January 2003), accessed at <https://www.doctorswithoutborders.org/news-stories/press-release/urgent-appeal-protection-north-korean-refugees-china>

<sup>99</sup> North Korea Freedom Coalition, *2015 Update*.

<sup>100</sup> Joseph Kahn, “China Moves Troops to Area Bordering North Korea,” *New York Times*, 16 September 2003,



## **Appendix B: Data Compilation for Period II (February-April 2012)**

A decade following the first period of elevated crackdowns, China once again engaged in stricter border control, but throughout a much shorter term of two and a half months from February to April 2012.<sup>101</sup> Although the exact dates for the arrest, detainment and repatriation (or refoulment) of North Korean refugees are unclear, various international organizations, media outlets and high-level officials have confirmed an intensified crackdown for these two and a half months.

On March 14, 2012, HRW released a press briefing stating: “reports indicate that Chinese police arrested the 41 people, including families with young children, in and around Shenyang, Liaoning province in early February.”<sup>102</sup> The briefing was drafted in alignment with dozens of human rights organizations in the International Coalition to Stop Crimes against Humanity in North Korea (ICNK) including Liberty in North Korea (LiNK).<sup>103</sup> A hearing before the Congressional-Executive Commission on China on March 5, 2012, also recognized that “Chinese authorities have reportedly detained dozens—perhaps as many or more than 40—North Korean refugees.”<sup>104</sup> In her testimony, Roberta Cohen emphasized the distinctiveness of the crackdowns:

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accessed at <https://www.nytimes.com/2003/09/16/world/china-moves-troops-to-area-bordering-north-korea.html>

<sup>101</sup> Some sources state that the period of intensified crackdowns began following the death of Kim Jong-il in December 2011 (for example, see: *Yomiuri Shimbun*, 2012, as referenced by “China Halts Repatriation of N. Korean Defectors,” *Chosun Ilbo*, 19 April 2012, accessed at [http://english.chosun.com/site/data/html\\_dir/2012/04/19/2012041900780.html](http://english.chosun.com/site/data/html_dir/2012/04/19/2012041900780.html)). This paper recognizes early February 2012 as the starting month for the second period of Chinese crackdowns against North Korean refugees

because prominent international organizations such as the Human Rights Watch (HRW) mention that date explicitly.

<sup>102</sup> Human Rights Watch, “The International Coalition to Stop Crimes against Humanity in North Korea Condemns China’s Expulsion of North Korean Refugees,” News Report, (14 March 2012), accessed at <https://www.hrw.org/news/2012/03/14/international-coalition-stop-crimes-against-humanity-north-korea-condemns-china>

<sup>103</sup> *Ibid.*

<sup>104</sup> Congressional-Executive Commission on China, *China’s Repatriation of North Korean Refugees*, Hearing Before the Congressional-Executive Commission on China, One Hundred Twelfth Congress, Second Session (Washington DC: U.S. Government Printing Office, 2012).

This particular case of North Koreans has captured regional and international attention. South Korean President Lee Myung Bak has spoken out publicly against the return of the North Koreans and National Assembly woman Park Sun Young has undertaken a hunger strike in front of the Chinese Embassy in Seoul. The Parliamentary Forum for Democracy encompassing 18 countries has urged its members to raise the matter with their governments.<sup>105</sup>

Following the initial confirmations of the arrest and detainment of around 40 North Korean refugees by China, it was later reported that these individuals were likely repatriated according to statements by South Korean Assembly woman Park Sun Young. Former UN Secretary General, Ban Ki-Moon also publicly acknowledged the gravity of the situation and expressed concerns for the refugees in his meeting with the South Korean Foreign Minister.<sup>106</sup>

Heightened international criticism and protests in front of the Chinese Embassy in Seoul led the then South Korean President Lee Myung-bak to ask China to abide by the “international norms” and stop the forced repatriation of North Korean refugees at a national television conference on February 22, 2012. The South Korean Foreign Ministry also stated that it would “seek international support” on the issue at the United Nations Human Rights Council meeting in Geneva the following week.<sup>107</sup> On March 2, 2012, President Lee also met with Chinese Foreign Minister Yang Jiechi at the Blue House and formally asked China to put a halt to repatriation of

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<sup>105</sup> Cohen, “Testimony: China’s Repatriation of North Korean Refugees.”

<sup>106</sup> While it is likely that the 41 refugees were repatriated, *CNN* also notes that “[it] cannot independently confirm the assertion.” For more information, see: Paula Hancocks, “China Has Repatriated North Korean Defectors, South Korean Official Says, *CNN*, 9 March 2012, accessed at <https://www.cnn.com/2012/03/09/world/asia/china-north-korea/index.html>

<sup>107</sup> Sang-Hun Choe, “China Should Not Repatriate North Korean Refugees, Seoul Says,” *New York Times*, 22 February 2012, accessed at <https://www.nytimes.com/2012/02/23/world/asia/seoul-urges-china-to-not-return-north-korean-refugees.html>

the asylum seekers.<sup>108</sup> These measures by South Korea culminated in the direct discussion of the crackdowns in a bilateral summit with China and on March 26, 2012. During the summit, President Lee and then Chinese President Hu Jintao decided to pursue “silent diplomacy” by agreeing to “gently handle” the refugee issue.<sup>109</sup>

On April 18, 2012, *Yomiuri Shimbun* reported that China had formally halted its repatriation of North Korean refugees after interviewing Chinese officials.<sup>110</sup> The news that Beijing had suspended refoulement of North Koreans was highly publicized by the South Korean media such as *Chosun Ilbo* and *Joongang Daily*, which stressed that such actions followed Seoul’s formal requests to Beijing.<sup>111</sup> On the other hand, other international organizations and public media have expressed concerns of the independent report by *Yomiuri Shimbun*. For instance, *DailyNK* stated that “no guidelines or situations have changed,” with the crackdown further intensifying and “the Chinese frontier guards and public security officials [strengthening] its inspection and enforcement activities at the North Korea-China border.”<sup>112</sup> Liberty in North Korea (LiNK) echoed *DailyNK* by saying: “There is no independent evidence to support the *Yomiuri Shimbun* claim, and there have been no official Chinese statements or signals to corroborate it.”<sup>113</sup>

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<sup>108</sup> Jae-wan Noh (노재완), “President Lee Myung-bak Asks China to Stop Repatriation of North Korean Refugees (이명박 대통령, 탈북자 강제복송 중단 요구),” *Radio Free Asia*, 2 March 2012, accessed at [https://www.rfa.org/korean/in\\_focus/human\\_rights\\_defector/ne-nj-03022012105616.html](https://www.rfa.org/korean/in_focus/human_rights_defector/ne-nj-03022012105616.html)

<sup>109</sup> Byung-soo Park (박병수), “North Korean Defectors ‘Silent Treatment’ Agreement. China, Likely to Send the Remaining 7 Refugees to Korea (탈북자 문제 ‘조용한 처리’ 합의. 중국, 남은 7명도 한국 보낼 듯),” *Hankyoreh (한겨레)*, 4 April 2012, accessed at <http://www.hani.co.kr/arti/politics/diplomacy/526801.html>

<sup>110</sup> *Yomiuri Shimbun*, 2012, as referenced by “China Halts Repatriation of N. Korean Defectors,” *Chosun Ilbo*.

<sup>111</sup> “China Halts Repatriation of N. Korean Defectors,” *Chosun Ilbo*; Moon, “China Suspends Repatriation of Defectors: Yomiuri.”

<sup>112</sup> Joing Ik Cho, “No Orders to Stop Repatriation,” *DailyNK*, 20 April 2012, accessed at <http://english.dailynk.com/english/read.php?catald=nk00100&num=9141>

<sup>113</sup> Liberty in North Korea, “NK News Brief: April 25, 2012,” *Weekly News Brief*, (25 April 2012), accessed at <https://www.libertyinnorthkorea.org/weekly-news-brief-25-april-2012/>

### **Appendix C: Data Compilation for Period III (July 2017-April 2018)**

The third and most recent case of elevated Chinese border control efforts began in July 2017 when HRW released a report stating that China was “redoubling” its apprehension of the refugees. They estimated that at least 41 North Koreans had been detained from July to August 2017, as indicated by current “activists and North Koreans living in South Korea who are in contact with people in China and North Korea.”<sup>114</sup> The number of arrests and detainments was significantly higher in comparison with the previous year, when 51 North Koreans had been arrested out of which 37 were repatriated throughout the 12-month period from July 2016 to June 2017. Furthermore, China additionally arrested at least 41 North Koreans throughout January-March 2018 and detained seven more refugees in April 2018.<sup>115</sup>

Along with heightened surveillance along the China-North Korean border regions, Beijing also performed crackdowns on North Korean businesses and traders in China in response to the UN sanctions that were implemented on August 5, 2017.<sup>116</sup> The UNSC Resolution 2371 banned coal and iron ore imports to North Korea as well as related vessel activities.<sup>117</sup> Resolutions 2375 (September 11, 2017), 2397 (December 22, 2017), and 2407 (March 21, 2018) were adopted in the following months to accompany Resolution 2371. They have consequently impacted smuggling activities near the border areas and increased Chinese surveillance for illicit activities.<sup>118</sup>

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<sup>114</sup> Human Rights Watch, “China: Redoubling Crackdowns on Fleeing North Koreans,” News Report (3 September 2017), accessed at <https://www.hrw.org/news/2017/09/03/china-redoubling-crackdowns-fleeing-north-koreans>

<sup>115</sup> Ibid.

<sup>116</sup> Jane Perlez, “China’s Crackdown on North Korea Over U.N. Sanctions Starts to Pinch,” *New York Times*, 16 August 2017, accessed at <https://www.nytimes.com/2017/08/16/world/asia/china-north-korea-seafood-exports.html>

<sup>117</sup> United Nations Security Council, *Resolution 2371*.

<sup>118</sup> “Smugglers Who Worked North Korea-China Border Seeing Tough Times Under Kim, Sanctions,” *Japan Times* 25 December 2017, accessed at <https://www.japantimes.co.jp/news/2017/12/25/asia-pacific/social-issues-asia-pacific/smugglers-worked-north-korea-china-border-seeing-tough-times-kim-sanctions/>

International media confirmed the doubling of crackdowns. *Reuters* reported that 10 North Koreans had been detained by the Chinese police in Liaoning province on November 5, 2017. One observer informed *Reuters* that China “[had] intensified its crackdown on North Korean defectors in China, especially in the past two months.”<sup>119</sup> On November 7, 2017, *KBS* also reported that 6 additional refugees had been arrested by Chinese guards while crossing the Yalu River into Jilin province<sup>120</sup>. The news had initially been provided by the North Korean Refugees Human Rights Association of Korea (NKR) with an emphasis on possibilities of potential refoulement of the escapees. In response to these reports, South Korean foreign ministry spokesman Roh Kyu-deok assured the public that “[South Korea] [is] making diplomatic efforts with related countries so that the defectors will not be forcibly repatriated.”<sup>121</sup> He also added, “However, it is basic principle that the specific details related to the refugee situation remain unconfirmed in order to ensure the safety of the refugees’ identity and maintain diplomatic relations with the countries involved in the issue.”<sup>122</sup>

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<sup>119</sup> James Pearson and Hyeonhee Shin, “China Detains 10 North Koreans Amid Possible Defector Crackdowns: Sources,” *Reuters*, 7 November 2017, accessed at <https://www.reuters.com/article/us-northkorea-china-defectors/china-detains-10-north-koreans-amid-possible-defector-crackdown-sources-idUSKBN1D70XO?il=0>

<sup>120</sup> “6 North Koreans Arrested Yesterday by Chinese Police While Crossing Yalu River (북한 주민 6명, 어제 압록강 건너 탈북하다가 중국 군인에 체포),” *KBS World Radio*, 7 November 2017, accessed at [http://world.kbs.co.kr/korean/news/news\\_IK\\_detail.htm?No=29427](http://world.kbs.co.kr/korean/news/news_IK_detail.htm?No=29427)

<sup>121</sup> Pearson and Shin, “China Detains 10 North Koreans.”

<sup>122</sup> “6 North Koreans Arrested Yesterday,” *KBS World Radio*.

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