

112TH CONGRESS
2D SESSION

H. CON. RES. 109

Expressing the sense of Congress that the People's Republic of China should not repatriate the North Korean refugees detained in China, subjecting them to torture, imprisonment, and execution, but allow their resettlement in the Republic of Korea and other countries.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2012

Mr. SMITH of New Jersey (for himself and Mr. ROYCE) submitted the following concurrent resolution; which was referred to the Committee on Foreign Affairs

CONCURRENT RESOLUTION

Expressing the sense of Congress that the People's Republic of China should not repatriate the North Korean refugees detained in China, subjecting them to torture, imprisonment, and execution, but allow their resettlement in the Republic of Korea and other countries.

Whereas the People's Republic of China classifies all North Korean refugees in China as “illegal economic migrants” and not refugees;

Whereas the United Nations Convention relating to the Status of Refugees of 1951 and the 1967 Protocol define a refugee as a person who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opin-

ion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country”;

Whereas the People’s Republic of China became a signatory to the Convention in 1982;

Whereas Article 3 of the United Nations Convention Against Torture, Cruel, Inhumane or Degrading Treatment or Punishment states, “No State Party shall expel, return (‘refouler’) or extradite a person to another State where [there] are substantial grounds for believing that he would be in danger of being subjected to torture”;

Whereas the Government of the People’s Republic of China violates its obligations under the United Nations Convention relating to the Status of Refugees of 1951 and the 1967 Protocol relating to the Status of Refugees by impeding access to the United Nations High Commissioner for Refugees (UNHCR);

Whereas the People’s Republic of China became a signatory to the United Nations Convention Against Torture, Cruel, Inhumane or Degrading Treatment or Punishment in 1988;

Whereas in December 2011, the Democratic People’s Republic of Korea announced its intention to annihilate up to three generations of a family if a family member fled North Korea during the 100-day mourning period following Kim Jong-il’s death;

Whereas the eyewitness testimonies of North Korean defectors have been well documented by the United Nations, the United States Department of State, and the Republic of Korea, and thus determined that North Koreans when

repatriated to North Korea are subjected to torture, imprisonment, and execution;

Whereas the Government of the People's Republic of China forcibly detains and imprisons Chinese citizens and foreign aid workers who try to assist North Korean refugees inside China;

Whereas the former United Nations Special Rapporteur on North Korea, Vitit Muntarbhorn, in 2005 concluded that North Koreans in China under international law are “refugees sur place” because while they may have not fled because of persecution they face a well founded fear of persecution if forced back to North Korea;

Whereas despite urging from the international community that the Government of the People's Republic of China not return North Koreans to North Korea, the Chinese Government reportedly forcibly repatriated approximately 31 North Korean refugees in March 2012 who had been arrested by Chinese security agents between February 8 and February 12, 2012;

Whereas the refugees were repatriated to North Korea despite a report by the United Nations High Commissioner for Refugees on February 24, 2012, that it had requested the Government of China to uphold the non-refoulement principle and urged a humanitarian solution for the detained North Koreans;

Whereas up to 90 percent of North Korean women refugees in China fall prey to traffickers in China who sell the refugees into sexual slavery;

Whereas the Republic of Korea has repeatedly requested that China stop repatriating North Korean refugees;

Whereas under Articles 2 and 3 of the Constitution of the Republic of Korea, North Koreans are considered citizens of the Republic of Korea; and

Whereas the international community has shown its willingness to help China resolve this crisis as evidenced by the safe resettlement of over 27,500 North Korean refugees in over 20 nations: Now therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That—*

3 (1) Congress—

4 (A) requests that the Government of China
5 honor its obligations under the United Nations
6 Convention relating to the 1951 Status of Refu-
7 gees and the 1967 Protocol; and

8 (B) requests that the United States Am-
9 bassador to China submit a report within 30
10 days about whether he is allowed to visit the
11 North Korean refugees and on the plight of the
12 North Korean refugees; and

13 (2) it is the sense of Congress that—

14 (A) any forced repatriations of North Ko-
15 rean refugees should be stopped;

16 (B) North Korean refugees wishing reset-
17 tlement in a third country should be allowed to
18 apply for asylum in those countries with the as-
19 sistance of the United Nations High Commis-
20 sioner for Refugees; and

1 (C) the United Nations High Commis-
2 sioner for Refugees should be allowed to have
3 access to all North Korean refugees residing in
4 China.

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