

Executive Summary

Refugees from a country neighboring the People's Republic of China face an extremely grave situation while they are in China as a result of China's refusal to recognize them as refugees, and its active pursuit and forcible repatriation of these refugees. We urge China to recognize these refugees as *refugees sur place* due to their well-founded fear of persecution if they are repatriated. We also urge China to live up to its obligations under national and international law, including Article 6 CEDAW and Article 5 of the Compulsory Education Law of the People's Republic of China.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

- **Article 6 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), obliges China to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”**
- In addition to China's various obligations under international law, Article 5 of the Compulsory Education Law of the People's Republic of China guarantees nine years of compulsory education to all children living in China regardless of nationality or race.

II. Promotion and protection of human rights on the ground

A. Cooperation with human rights mechanisms

1. Cooperation with Special Procedures

The situation in China of refugees from a neighboring country is extremely grave, and is characterized by poverty, fear, and violence, including sexual violence. In order to monitor the situation, we would like to urge the Chinese government to invite

- the Special Rapporteur on the human rights of migrants and
 - the Special Rapporteur on Trafficking
- to monitor the situation.

B. Implementation of international human rights obligations

1. Right to life, liberty and security of the person

China's policy of forcible repatriation of refugees from a neighboring country, and the resulting risk of being discovered by Chinese security personnel puts these refugees in an extremely vulnerable situation, especially with respect to trafficking. This is exacerbated by the extreme gender imbalance in China, especially in the northeastern provinces, making female refugees liable to be sold by brokers as "brides" to Chinese men. Many of these unions are characterized by poverty and brutal violence, including sexual violence, at the hands of the "husbands" and other family members. However, the fear of being discovered by Chinese authorities and forcibly repatriated make it difficult for these female refugees to escape.

We urge the Chinese government to immediately cease its practice of *refoulement* of refugees, and to instead recognize them as *refugees sur place* and afford them protection under the law.

We also remind the Chinese government that, as a signatory to the **Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)**, under **Article 6 it is obliged to** "take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. " **In order to accomplish this, for example by creating and implementing effective legislation that would protect all victims of trafficking in China regardless of nationality, we would like to suggest that the Chinese government request technical assistance from the United Nations Office on Drugs and Crime.**

2. Right to education and to participate in the cultural life of the community

The children of Chinese fathers and mothers who are refugees from a neighboring country (or those of two refugee parents) are in an extremely vulnerable position because of the policy of non-recognition by the Chinese government, which chooses to consider them economic migrants instead.

Because of the danger posed to the refugee parent(s) by China's policy of forced repatriation, many children are not entered on the family register, to avoid discovery of the parent. The children are thus unable to receive an education in cases where the school requires the family register for enrollment. However, Article 5 of the

Compulsory Education Law of the People's Republic of China guarantees nine years of compulsory education to all children living in China regardless of nationality or race.

Therefore we urge the Chinese government to

- 1) Immediately cease its policy of forced repatriation of refugees, and recognize them instead as *refugees sur place*; and
- 2) Cease to require the family register (*hukou*) as a condition of enrollment in compulsory education.

3. Migrants, refugees and asylum seekers

The Chinese government takes an extremely harsh view of refugees, whom it chooses to regard as economic migrants undeserving of protection, despite well-documented evidence that refugees who are forcibly repatriated face a credible risk of torture, execution, and/or being sent to a prison camp in their country of origin. This is partly because the neighboring country in question considers leaving an illegal act, and punishes accordingly those who have done so.

The fear of being discovered by Chinese security personnel and forcibly repatriated puts these refugees in an even more vulnerable situation than they would be otherwise. It results in male and female refugees being coerced into accepting exploitatively low wages in China in exchange for not being reported to the authorities by their workplace. It also results in sex trafficking of female refugees, which can take several forms: webcam chats, prostitution, and most commonly, "marriages" with Chinese men arranged by brokers who sell the women.

We urge the Chinese government to immediately cease its practice of *refoulement* of refugees, and to instead recognize them as *refugees sur place* and afford them protection under the law.

III. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

We urge the Chinese government to request technical assistance **from the United Nations Office on Drugs and Crime to help it meet its obligations under Article 6**

of CEDAW, for example by creating and implementing effective legislation that would protect all victims of trafficking in China regardless of nationality.

If the situation in the neighboring country in question deteriorates further, increased numbers of people seeking asylum can be expected. There is no need for China to bear alone the burden of supporting and protecting those refugees. Instead, we urge China to proactively request technical assistance from the Office of the High Commissioner for Refugees to develop an effective framework in which to deal with these refugees.

We urge China to cease immediately its forced repatriation of refugees crossing its borders, and to recognize them as *refugees sur place*, seeking technical assistance from United Nations bodies if necessary to cope with potentially large refugee flows. We also urge the Chinese government to implement effective measures to protect victims of trafficking, especially for the purposes of sexual exploitation.