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“Smuggled Refugees”: The Social Construction of North Korean Migration

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ABSTRACT

In this paper, I demonstrate the identity transformation of North Korean women in interaction with state and non-state actors and domestic and regional structures, which I formulate for the purposes of this paper. From a state-centric social constructivist perspective in politics and international relations, I examine how the identities and interests of North Korean women are constituted and reconstituted in the Democratic People’s Republic of Korea, the People’s Republic of China and five South-East Asian countries along their migration routes before they reach the Republic of Korea - the so-called “Seoul Train in the Underground Railway”. Back in their country of origin, North Korean women are socially constructed as Confucian communist mothers. In China, the most frequently depicted images of North Korean women are trafficked wives. By paying for smugglers to cross borders to neighbouring South-East Asian countries, North Korean women finally become the agents of their own destiny, refugees in waiting to be transferred to South Korea.

INTRODUCTION

The number of North Koreans entering South Korea annually since 2006 has been more than 2,000, compared to the total of 607 up to 1989.¹ There are numerous allegations of human trafficking and human rights violations against North Koreans. States hold the key as to whether to protect them or repatriate them back to their country of origin. For this reason, in this paper I focus on the state identify transformation of North Koreans by applying social constructivism in politics and international relations.²

Migration and (anti-)trafficking studies have been relatively short of analysis from a political perspective. In this paper, I apply a social constructivist approach from the field of politics and international relations in understanding North Korean migration and trafficking issues, and explore how the states involved define the identities and interests of North Koreans in their interaction with nonstate actors under the regional structure. The basic assumption of social constructivism is that states constitute and reconstitute actors' identities and interests through the interaction with agents and structures under the constantly changing domestic and international environments (among other social constructivists in international politics, I focus on Finnemore, 1996; Katzenstein, 1993; Wendt, 1999, 2006). The most similar approach to this in international migration studies would be Myron Weiner's security/ stability framework (1994). The social constructivist approach in international politics has not been applied to global migration studies sufficiently, mainly for two reasons. First, there have not been many political analysts in migration studies in general. Therefore, as yet, no grand political theory of migration has been established. The other reason is that social constructivism in international politics is not firmly recognized as a theory but, rather, as a methodology or an epistemology (Wight, 2006: 15-25).

I would argue that Wendt's social constructivism sheds light on the changing international environment after the end of the Cold War by focusing on the value of ideas in post-Cold War international relations and the importance of the process of state identity transformation. States pursue their national interests, which are no longer based only on hard-line security power or the economy, but also on political cultures or historical traditions. In particular, in migration studies, these domestic norms and values in bilateral relations are important when states determine the identity of each group of new immigrants. On the basis of these identities imposed by states, and also constituted through inter-agent interactions within society, states form policies on immigration or trafficking issues and, later, are pushed to revise their policies in constantly changing environments. Given this theoretical framework of social constructivism in politics and international relations, in

this paper I examine how the East Asian states through which North Koreans transit constitute different interests in, and the identities of, North Koreans with regard to their territorial sovereignty, and make policy decisions accordingly.

The focus of this paper is the status of North Korean women and their changed identities by the states of the Democratic People’s Republic of Korea (DPRK or North Korea), the People’s Republic of China (PRC) and five South-East Asian countries along their migration routes before they reach the Republic of Korea (ROK or South Korea) — the so-called “Seoul Train in the Underground Railway” (International Crisis Group, 2006: 14). Their refugee status is contested in regional geopolitics and international law, given the fact that it has evidently been refused by the PRC and withdrawn by the UN High Commissioner for Refugees. Seventy-five per cent of the North Koreans who have landed in the ROK since 2006 have been women. Most trafficked North Korean victims of forced marriages or sexual exploitation in China are women. This is, by no means, to discriminate against North Korean men, but to illuminate the gender perspective in these dangerously exploitative and entirely circular routes of North Korean migration.

Non-state actors such as non-governmental organizations (NGOs), Christian missionaries, brokers or smugglers and international organizations have played significant roles in constituting the identities of North Korean women as trafficking victims or refugees. Most of the literature on this issue is from NGO workers, for advocacy purposes (Good Friends, the International Crisis Group, Anti-Slavery, Human Rights Watch, Amnesty International and the US Committee on Human Rights in North Korea have all produced similarly styled reports). No work has yet analysed state responses and their identity formation extensively. Some NGOs have undertaken limited coverage of the PRC’s and some South-East Asian countries’ policies on trafficking (US Committee on Human Rights; International Crisis Group). However, the interactive process of the state identification of North Korean women through interactions with non-state actors has rarely been examined from a social constructivist perspective in international relations. This state-centric approach does not undermine the importance of non-state actors in the social construction of North Korean women migration. Instead, I see non-state actors as crucial dependent variables.

Table 1 demonstrates the process of the state identity transformation of North Korean women in each state(s) through interactions with non-state actors and domestic and regional structures, which I formulate for this paper.

Table 1

IDENTITY TRANSFORMATION OF NORTH KOREAN WOMEN

	Democratic People's Republic of Korea (DPRK)	People's Republic of China (PRC)	South-East Asian states	Republic of Korea (ROK)
North Korean women (social construction)	Confucian communist mothers	Trafficked wives	Smuggled refugees	Unsettled settlers
North Korean women (legal status)	Citizens	Illegal border-crossers who should be repatriated	Illegal border-crossers who transit	Defector-residents
Non-state actors	Community; family	NGOs; churches; traffickers; <i>Chosŏnryok</i> families in ROK and DPRK; the media; UN-HCR	NGOs; churches; smugglers; UN-HCR	NGOs; churches in ROK; defector communities; media; political parties
Structures	Isolation from international society; political repression; malfunctioning economy; anti-market policies; poverty and famine; natural disasters	DPRK PRC bilateral relations; regional security; internal stability; minorities (Uyghurs, Tibetans etc.); state party to Refugee Convention	Diplomatic relations with both Koreas; bilateral trades; ideological alliance; international humanitarian norms	Competitive market economy; information; social discrimination

CONFUCIAN COMMUNIST MOTHERS: NORTH KOREAN WOMEN IN THE DPRK

There are three basic factors that constitute the identity of North Korean women in the DPRK: historical post-colonialism, political Marxism-Leninism and cultural Korean Confucianism (Song, 2010). First, historically, the shared memory of the brutal Japanese colonial rule among North Koreans and the state’s post-colonial nation-building process heavily inflict the “permanent siege mentality” on the nation (Harrison, 2002: 8-20). Women are depicted as an object of state protection as former victims, as they were particularly exploited under Japanese rule, sexually and physically, as “comfort women” for Japanese imperial soldiers or forced labourers trafficked to Japan. The image of colonial female subjects was transformed to that of independent modern individuals, equal with men, in the newly established industrial state in the immediate post-1945 North Korea. The Soviets were heavily involved in the DPRK’s nation-building process, in total compliance with Marxism-Leninism. They guided the North Koreans on how to establish government institutions, enact laws or implement policies from the very beginning of the DPRK’s nation-building process. One of the Soviet-led laws was the Gender Equality Law, which was enacted in 1946 (Song, 2010: 78).

Second, as the DPRK’s international relations were limited to within the socialist bloc, the government’s policies have been very much in line with those of other socialist countries, especially the PRC and the Union of Soviet Socialist Republics (USSR). Although it was fair to compare Soviet Stalinism and the PRC’s Maoism, the DPRK has developed its own brand of socialist politics and ideology, called Chuch’e (self-reliance), which the state claims was first announced in 1955. The DPRK also started detaching itself from the USSR and the PRC after the Sino-Soviet conflicts of the 1960s and 1970s (Park, 1996: 11; Song, 2010: 123). Under the Chuch’e ideological structure, North Korean women are encouraged to be “selfless communist mothers”, who are educated, independent of their husbands, go to work, can stand up against higher authorities to defend socialist values and can raise their children as “good communists” (Song, 2010: 117-119). After the fall of the Berlin Wall and the subsequent collapse of the socialist bloc in Eastern Europe, the DPRK enhanced its own mechanism and strengthened its “our style socialism” under Kim Jong Il. The DPRK finally excised communism from its amended constitution in 2009 and replaced it with “Military-First” politics.

Third, and most importantly, traditional Korean philosophies such as Korean Confucianism, which was the official ideology for the Choson dynasty (1392-1910), Shirak (Practical Learning, the more pragmatic Korean Confucianism of the seventeenth to nineteenth centuries) or Tonghak (Eastern Learning, the nineteenth century’s revolutionary Korean philosophy, which led to rebellious peasant movements against the upper class) are the deeply embedded in the Korean mentality and its identity formation of women in the DPRK (Song, 2010: 54-74). Under this patriarchal Confucian normative structure, Korean women have societal duties to contribute their labour for the greater public good, as well as familial responsibilities to look after their children and husbands, the latter being referred to as “masters” of the household (Ihwa Women’s University, 2001: 113-115).³ While men are conscripted to the compulsory military services for 5-13 years, ordinary North Korean women are in charge of the household economy, through the selling of agricultural products on the black market (Good Friends, 2007). According to the ROK Statistics Office, the female labour force participation rate in the DPRK is 47.8 per cent, compared to a male participation of 52.2 per cent in 2008 (Statistics Office, 2011). However, the female participation in the DPRK workforce is largely in labour-intensive agricultural sectors or low-wage jobs. The wage gap between men and women can be expressed as 100 to 60-70. A North Korean defector-resident, Choi Un Sil, who used to be the Deputy Head of Saroch’ong (the DPRK Youth Association) in Onsong, North Hamkyong Province, says that:

... the North Korea society, unlike South Korea, has never been influenced by Western [liberal] values and therefore still keep the past traditions and the Confucian order in society. Women are subservient towards men. I've never imagined women opposed men's [husbands'] ideas or shouted at men in the family. I didn't think it was particularly unfair or bad, either. South Korean women, on the other hand, sometimes I feel, are over the line and too selfish. My South Korean friends keep telling me that I have such a Choson dynastic mentality (Choi Un Sil, n.d.).

Choi saw the first South Korean woman to appear on television in 1989, when the South Korean university student activist, Im Su Kyong, went to North Korea in protest to the then ROK government's hostile policy towards the DPRK. Choi was shocked because of Im's liberal outfit, which consisted of a T-shirt and blue jeans with short hair, compared to North Korea's conservative traditional female hanbok outfit, which is composed of a long-sleeved top and a long skirt. Choi also says that the virtues of women in North Korea are to sacrifice themselves and to take full responsibility for the family, which she still respects. This cultural tradition is so deeply embedded that even after they arrive and settle in South Korea, North Korean women want to maintain the malechauvinistic order, which is much favoured and credited by socially conservative South Korean men, in the family.

Women are framed under these three historical, political and cultural moulds when they are in North Korea. Despite the fact that they are socially and culturally oppressed, North Korean women do not strongly object to traditional values and gender-specific roles in society (men protecting the country and women in charge of economy and family). Various “push and pull” factors have been affecting women's decisions to leave the country since the mid-1990s (Lee, 2004). Economic difficulties, political repression and information from outside have been the main drivers, but the recent trends show that some North Korean women voluntarily leave the country in search of better economic opportunities. The DPRK has failed to provide basic subsistence to its own people.

TRAFFICKED BRIDES: NORTH KOREAN WOMEN IN CHINA

On the basis of its bilateral agreement with the DPRK, the PRC does not recognize North Koreans in China as refugees, but as illegal border crossers. The identity of North Korean women as trafficked victims has mainly been shaped by non-state actors, including brokers, NGOs, missionaries and the Chinese of Korean ethnic origin, called the Chosonjok. As soon as they leave their motherland,

North Korean women are exposed to various conflicting norms and interests. Brokers seek financial gain out of human trafficking, whereas evangelicals are engaged in their mission to spread the Christian belief to North Korean non-believers. The NGOs follow humanitarian principles and aim to provide North Korean women with shelter, food and escape routes. The Chosonjok, who share their hard-times revolutionary history with North Koreans, feel altruistic towards the idea of hiding North Korean women who are looking for better lives in China.

The exact figure of North Koreans in China is unknown. The PRC government estimates 10,000-50,000; the ROK claims 30,000-50,000; the US State Department says 75,000-125,000; the United Nations High Commissioner for Refugees (UNHCR) opts for 50,000-100,000; and the NGOs say 100,000-300,000 (on the problems with regard to these statistics, see Seymour, 2005: 16; Smith, 2003; Wang, 2004). In its 2009 report, the US Committee for Refugees and Immigrants estimates that around 11,000 North Koreans remained in hiding in or near the border.⁴ The official stance of the PRC government is to repatriate all illegal border-crossing North Koreans back to North Korea, where they face severe punishment and even the death penalty (Committee for Human Rights in North Korea, 2008; Human Rights Watch, 2007; Richardson, 2007). The PRC is a party to the UN Refugee convention, but it prioritizes its bilateral relations with the DPRK over its international commitment to refugee protection. For the Chinese, regional security and internal stability are the most important issues in dealing with the North Koreans in its territory. A mass exodus from North Korea may destabilize the north-eastern border region, where some 800,000 ethnic Koreans have been residing since the late nineteenth century.

Despite the lack of official figures, NGOs have reported that many North Korean women are trafficked into rural areas of China and sold as wives, while others are smuggled such that they transit through China. The NGOs are the main actors in constituting the images and identities of North Korean women as “trafficked victims” or “smuggled refugees”. There have been numerous cases reported by NGOs about women being trafficked for sexual exploitation or forced labour (Butler, 2009; Coalition against Trafficking in Women, n.d.; Committee for Human Rights in North Korea, 2009; CRS Report for Congress, 2007; Davis, 2006; Good Friends, 2004; Human Rights Watch, 2002; Human Rights Watch, 2008; HumanTrafficking.org, 2008; International Crisis Group, 2006: 13-14; J. Kim, 2010; Lagon, 2008; Muico, 2005; North Korea Now, 2010; Park et al., 2010; Radio Free Asia, 2007, 2010, 2011; Seymour, 2005; Song, 2002; US Department of State, 2010). Women are relatively more mobile than men in North Korea and they can leave the country with less state surveillance. In the absence of a formal immigration procedure, North Korean women flee to

China, voluntarily and involuntarily, and temporarily or permanently, in view of its better economic conditions, compared to those of North Korea. As soon as they leave North Korea, however, their illegal status in China makes them vulnerable to possible physical or sexual exploitation.

There have been many names and identities of North Korean border-crossers in China. Teenagers who temporarily fled to China in search of food and went back to North Korea when they had fed themselves enough were called *kkotjebi* (fluttering swallows). Those who left the country because of food shortages were called “environmental refugees” (Lee, 2002). Those who came for better economic opportunities are called “economic migrants”. Few are recognized as political refugees (Lohman, 1996; Seymour, 2005). The UNHCR argues that North Koreans in China are refugees, since no matter why they leave the country, when they return, they face the fear of persecution (UNHCR, 2004). Severe punishment, torture and even forced abortion in North Korean detention centres have also been reported by NGOs (Hawk, 2004; LFNKR, 2004; Milanova, 2005; North Korea Freedom Coalition, n.d.; Pitts, n.d.; Townsend, 2002). These NGOs identify North Korean women in China as victims of human trafficking and forced marriages.

The identity of North Korean women as independent agents who seek better life chances is undermined in the NGO reports. Women are depicted as helpless victims of human trafficking or forced marriages. Some NGO workers and missionaries have sought what they believe are radical solutions to save North Korean women in China. They have planned and organized high-profile bids by North Koreans to break into the premises of foreign embassies or schools in Beijing or Shenyang. When a series of groups of North Koreans broke into diplomatic compounds in the early 2000s, the PRC authorities responded strongly against these developments.⁵ Some Chinese security guards reacted violently by entering the premises of the Japanese school and dragging North Koreans out, which increased the diplomatic tension between the PRC and Japan (VOA News, 2004). These episodes were filmed and distributed to the media, this being organized by NGO workers and missionaries.

These high-profile break-ins have made the fate of the remaining North Korean women volatile. After several break-in attempts, the PRC saw this matter as being against their national interests and increased the security around foreign diplomatic compounds. The state conducted random crackdowns in underground churches or private houses where North Korean women were hiding, arrested those who were helping North Koreans and tightened border controls.

The PRC government has never formally recognized the trafficked North Korean women as legitimate foreign residents, and as the wives of its rural citizens, for several reasons related to politics, security and diplomacy. For the PRC, any potential mass exodus from North Korea is not good news, since it will be a threat to regional security and domestic stability. China does not need cheap labour from North Korea, since it has a sufficient domestic labour force. The population growth of ethnic Koreans in Yanbian, which may link to other minorities such as Uyghurs or Tibetans, is also a threat to the PRC’s minority policies. Those who help illegal immigrants are prosecuted under the Chinese jurisdiction⁶ and, furthermore, from the Chinese and North Korean perspectives, NGOs are seen as political or sectarian, anti-communist, anti-DPRK and “Christian fundamentalist[s]” (Seymour, 2005: 19). At the same time, the PRC prefers quiet diplomacy, although it is not known how many North Koreans are saved by means of this method. The Chinese authorities have co-operated with the UNHCR and quietly sent North Koreans to neighbouring third countries (CRS Report for Congress, 2007: 11).

Very few of the North Korean women have been accorded a formal residential status, and they are still considered as illegal immigrants, even after childbirth. Most of these de facto North Korean wives of Chinese men live (or rather hide) in the north-eastern border areas. Historically, the Korean-Chinese Chosonjok and North Koreans have helped each other during each country’s difficult times. There are approximately 800,000 ethnic Koreans living in the Yanbian Korean Autonomous Prefecture, the north-eastern border city in China adjunct to North Korea, and they amounted to 36.7 per cent of the Yanbian population in 2009 (China Navor, 2010). During the Great Leap Forward and the Cultural Revolution, the Korean-Chinese crossed the border to North Korea in order to escape political purges or famine, and to seek help from their North Korean relatives. After the mid-1990s, when North Korea endured a series of natural disasters and several millions died because of hunger and disease, the Korean-Chinese helped them in return.

The norms and ideas of state sovereignty, the shared history of revolution and the Cold War, the bilateral relations between the PRC and the DPRK, concerns about domestic stability, the regional balance of power and security and the absence of a commitment to international law and ethics have been the main blocking factors for the PRC’s recognition and protection of trafficked North Korean women in China. North Koreans are also illegal immigrants under both the PRC and DPRK jurisdiction. The Chinese also insists that, according to the PRC-DPRK bilateral treaties,⁷ these North Koreans have to be repatriated to North Korea. The PRC’s policies on trafficking in North Korean women focus on punishing traffickers and deporting illegal border-crossing immigrants.

These North Koreans, and in particular the trafficked brides in China, are refugees and trafficked victims under the 1951 UN Convention relating to the Status of Refugees, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol) and the Protocol against the Smuggling of Migrants by Land, Sea and Air, the latter two supplementing the UN Convention against Transnational Organized Crime. The PRC has failed to protect refugees and trafficked victims, the latter of whom even bear the children of its own citizens. The UNHCR has also failed to overcome the wall of state sovereignty and to intervene in the protection of refugees and trafficked North Korean women in China. NGOs, missionaries and brokers are filling this gap illegally by breaking the PRC’s domestic jurisdiction, which has created the organized transnational smuggling of North Koreans in East Asia. Brokers play a critical role for transforming the nature and patterns of North Korean migration from trafficking into smuggling. Chinese-organized smuggling networks, South Korean missionaries and foreign NGO activists have been actively involved in the internal movements of North Korean women and transporting them across the Chinese borders to neighbouring South-East Asian countries (CRS Report for Congress, 2007: 13; International Crisis Group, 2006: 14). Network operators and missionaries have been playing significant roles in the dramatic increase in the number of smuggled defectors in recent years. Chinese gangs, who used to smuggle illegal migrants to and from Viet Nam, Laos or Myanmar, have stepped into the North Korean smuggling business and created the so-called “Seoul Train in the Underground Railway” (International Crisis Group, 2006: 14). Family members or churches in South Korea pay for illegally transporting thousands of young North Korean women across the borders each year to a number of South-East Asian countries, from which North Koreans are not repatriated back to the DPRK for humanitarian reasons. Some churches are closely involved in smuggling North Koreans from China to neighbouring countries (Committee for Human Rights in North Korea, 2008; Eberstadt and Griffin, 2007; Haggard and Noland, 2008; Onishi, 2006). Devoted NGO activists have helped North Koreans and have often been arrested and detained by the Chinese authorities. Methods and payments vary. The 28-year old Kim Il Sung University female graduate who I interviewed in South Korea, for example, paid US\$10,000 to a smuggler, who then provided a fake passport and a plane ticket to Seoul in 2008. Most North Koreans or their families pay around US\$3,000 for their passage to South Korea (note that the average annual salary of an ordinary North Korean is estimated to be around US\$1,320).

“SMUGGLED REFUGEES”: NORTH KOREAN WOMEN IN SOUTH-EAST ASIAN COUNTRIES

The refugee status of North Korean women in South-East Asia is highly contested, given the conflicting diplomatic interests of each South-East Asian state, with two Koreas, in the inter-subregional context. Between 75 and 85 per cent of North Koreans entering South Korea are from South-East Asia.⁸ Each South-East Asian state involved has a slightly different policy towards North Korean migration issues, related to its diplomatic or trade relations with the two Koreas and international humanitarian principles. The smugglers are so well organized that they have developed several secret routes through China to neighbouring South-East Asian countries (International Crisis Group, 2006).⁹ During this process, many women and female children are sexually harassed. Corrupt border guards or security officers in the Mekong region are paid by NGOs, missionaries and the ROK embassies to release captured North Koreans. The old northern routes have vanished due to the tight security. Transnational smugglers, who have now discovered several new routes, escort North Koreans through Zhengzhou, Nanning or Kunming over to Viet Nam, Laos or Myanmar.

The smuggled North Koreans reach the ROK or other foreign embassies, again with help from missionaries or NGO workers. The identities of smuggled North Korean women are determined by each state’s conflicting interests in border control, territorial integrity, ideological alliances, diplomatic relations and material benefits, as well as humanitarian norms. Like the PRC, these transitory countries prefer to solve this issue quietly. Most of these countries have diplomatic relations with both Koreas. Viet Nam and Cambodia have established diplomatic relations with the DPRK first (in 1950 and 1964, respectively) before doing so with the ROK (in 1992 and 1997, respectively), whereas the Philippines has opened up relations with the DPRK as recently as 2000 (see Table 2). Both the ROK and the DPRK have pursued active diplomatic activities with the Association of Southeast Asian Nations (ASEAN) countries since the 2000s; in particular, the ROK has extended developmental aid to Cambodia, Laos, Myanmar and Viet Nam through its Official Development Assistance (ISEAS, 2005).

However, unlike the PRC, most South-East Asian countries also say that they want to comply with international law and humanitarian principles regarding North Korean refugee issues, although they do not formally recognize a refugee status. In July 2004, Viet Nam sent 468 North Koreans directly from Viet Nam to South Korea. The Vietnamese government publicly stated that it would comply with “Vietnamese laws, international law and practices in humanitarian spirit” (Ministry of Foreign Affairs of Viet Nam, (2004a, b). This created diplomatic tension with the DPRK, which recalled its

ambassador back to the DPRK. The DPRK Committee for the Peaceful Reunification of the Fatherland criticized the ROK by describing the mass transfer as “abduction terrorism” (Korea Central News Agency, 2004). When the Vietnamese Minister of Public Security, Le Hong Ahn, visited Pyongyang in October 2008, the North Korean defectors issue was reportedly discussed between the DPRK and Viet Nam (Joongang Daily, 2008; Korea Central News Agency, 2008). Viet Nam, like Cambodia and Laos, shares the same socialist values with the DPRK and has long had friendly relations with the DPRK. On the other hand, the ROK has invested in Vietnamese development projects for the past decade, and many South Koreans have opened their businesses and factories in Viet Nam in recent years. South Korea ranks fourth among Viet Nam’s ten most important trade partners after China, the United States and Japan (Viet Nam Business Forum, 2010).

TABLE 2

DIPLOMATIC RELATIONS BETWEEN THE TWO KOREAS AND THE SOUTH-EAST ASIAN COUNTRIES

South-East Asian countries	Democratic People's Republic of Korea (DPRK)	Republic of Korea (ROK)
Brunei	7 January 1999	1 January 1984
Cambodia	28 February 1964	30 October 1997
East Timor	5 November 2002	20 May 2002
Indonesia	16 April 1964	18 September 1973
Laos	24 June 1974	25 October 1995
Malaysia	2 July 1973	26 February 1960
Myanmar	16 May 1975	16 May 1975
Philippines	12 July 2000	3 March 1949
Singapore	8 November 1975	7 August 1975
Thailand	8 May 1975	1 October 1958
Viet Nam	30 January 1950	22 December 1992

Source: ROK Ministry of Foreign Affairs and Trade, at <http://countryinfo.mofat.go.kr>

The increase in the number of North Koreans transferred from Viet Nam to South Korea in 2004 has resulted in a decrease in those transferred from Cambodia. Cambodia is the only country in South-East Asia that is party to the UN Refugee Convention. The Cambodian government has recognized North Koreans as South Korean citizens and has allowed them to stay in “safe houses” and be transferred directly to the ROK. Laos has been co-operative on North Korean refugee issues since 2009. Before 2009, the Laotian authorities allowed only around fifty North Koreans to be transferred to South Korea each year. In 2006, for example, the Laotian government declared that it would enhance security near the border to prevent North Koreans from coming over. In 2007, in return for the arrest of three North Korean teenage detainees, a Laotian official was reported to have demanded

US\$1,000 per head for their handover to a Japanese NGO (IntellAsia, 2007). In 2009, some 800 North Koreans made it to South Korea. Politically and diplomatically, Laos is closer to the DPRK than to the ROK. For this reason, the ROK is careful not to accept North Koreans directly. Bribery and malfeasance are common among Laotian security officers, who arrest North Koreans near the border between Laos and China and only release them after being paid (International Crisis Group, 2006: 21). The NGOs and missionaries intervene, frequently making use of the international media.¹⁰ NGO workers have criticized the ROK Embassy in Laos for being negligent towards North Koreans, who, according to the ROK Constitution, had to be under the embassy’s protection. The Laotian security authorities receive “fines” or “diplomatic fees” from NGO workers and missionaries, as well as from the ROK Embassy, for releasing North Koreans either back to the nearest Chinese border or to Thailand. Given the nature of the current Laotian regime and the sensitivity of the issue, the amounts involved in the financial transactions between the ROK state/non-state actors and the Laotian state are not, and are unlikely to become, known.

Myanmar, which is diplomatically closer to the DPRK, does not recognize North Koreans either as refugees or as South Korean citizens. However, when North Koreans reach the ROK Embassy in Yangon, the Burmese authorities let them stay, under the protection of the ROK (International Crisis Group, 2006: 21). The North Koreans are accommodated in “safe houses” before being transferred to South Korea. Still, many who cannot make it to the ROK Embassy are forcibly repatriated back to China.

According to the South Korean missionaries, approximately 40 per cent of those North Koreans entering South Korea come from Thailand. According to the media, in 2006, 1,000 North Koreans were detained in Bangkok and 500 were sent to Seoul (Straits Times, 2007; The Nation, 2007). The Thai authorities punish North Koreans for the act of illegal border-crossing by imposing a fine of 6,000 Baht (approximately £120) or 30 days’ imprisonment in a local prison.¹¹ Then, the North Koreans are transferred to the immigration removal centre in Bangkok for about 2 weeks, before they are finally sent to the ROK. In 2007, 400 North Koreans in the Bangkok immigration removal centre went on hunger strike, the NGOs intervened via the media. The number of North Koreans transferred from Thailand to the ROK increased from twenty or thirty per week to seventy.

The International Crisis Group identifies North Koreans in Thailand as “smuggled migrants”, brought into the country by NGOs and missionaries, rather than internationally recognized refugees (2006: 23). It also reports that Thai officials question the purpose and necessity of the involvement of the UNHCR, despite the latter’s strong presence in the country. The release of North Koreans is

negotiated between the Thai and the ROK governments, preferably in a discreet manner. During his visit to Thailand, the United Nations High Commissioner for Refugees, Antonio Guterres, even downplayed the North Korean refugee issue by saying “I don’t think it’s dramatic compared to other parts of the world” (Kyodo News, 2006). The UNHCR (n.d.) defines North Koreans as “persons of concern”, not refugees.

In South-East Asia, North Korean women are not trafficked for sexual exploitation, forced marriages or slavery. Still, NGOs, missionaries and the ROK embassies pay for their release from the respective country’s immigration detention centres and their transfer to South Korea, and the North Korean women have to refund these payments when they arrive in South Korea. How long this organized crime of smuggling North Koreans in South-East Asia can last is highly doubtful, since security concerns are likely to grow in South Korea as it witnesses several cases of spies amongst those entering South Korea by this route. Two North Korean spies entered South Korea through Thailand in 2010 (Chosun Ilbo, 2010). They attempted to assassinate Hwan Jang Yup, the highest ranking North Korean defector, who had fled to the ROK through the Philippines in 1997. Since 2004, there have been other similar cases of defectors disguised as North Korean spies (Hankyoreh, 2008; Joongang Daily, 2010).

According to Weiner (1994: 11), refugees and migrants are regarded as a threat in five broad categories of situations: (1) in relations between sending and receiving countries; (2) when they are perceived as a political threat or security risk to the regime of the host country; (3) when they are seen as a cultural threat; or (4) a social economic problem; and (5) when the host society uses immigrants as an instrument of threat against the country of origin. All of these matter to the ROK. Under the ROK Constitution, its territorial definition is the whole Korean Peninsula, which means that when North Koreans arrive in South Korea, they automatically become South Korean citizens. Under the domestic jurisdiction of the PRC and other South-East Asian states, North Koreans are illegal immigrants. Under the Refugee Convention and the Palermo Protocol, North Koreans are refugees and trafficked victims, respectively. In this conflict between international law and domestic legislation, all of the states involved in North Korean migration accord their state sovereignty and their bilateral relations a higher precedence than their international commitments.

CONCLUSION: THE MAKING OF NORTH KOREAN MIGRATION

Non-state actors have been the main players in the social construction of North Korean migration outside North Korea. They have led the discourse related to trafficked North Korean women in China, acted against the state jurisdiction, undermined the border controls and paid for corrupt security officers in South-East Asia. NGOs and missionaries have been providing shelter (and bibles) to North Koreans, organizing the high-profile embassy break-ins and paying for brokers to smuggle them across the borders, breaking state jurisdiction. They have criticized states (the DPRK, the PRC and the ROK) and the international regime (the UNHCR) for their failure to protect North Korean refugees. A South Korean missionary, Kim Hee Tae (2010), illustrates how NGOs tactically organized groups of North Koreans to enter foreign diplomatic compounds rather than the ROK Embassies in Viet Nam and Laos. Non-state actors have now become the most critical dependent variable that states have to respond to in one way or another. They transform North Korean women from desperate “Confucian communist mothers” in the repressive, developing North Korea to other identities: in other words, to “trafficked brides” in China and to “smuggled refugees” in other less repressive, but still corrupt and developing, South-East Asian countries.

However, NGOs’ active involvement in illegal smuggling, payments for brokers and bribing of South-East Asian security authorities creates serious problems for several important reasons. First, since most of them are Christian evangelicals, they buttress the illegal smuggling networks across China and South-East Asia. There have been reported cases that some Chinese gang smugglers have sexually exploited young North Korean women, and sometimes female children, on their way through the Mekong River and the jungles to neighbouring countries. Smuggling becomes a form of transnational organized crime involving gang members. Second, although these missionaries save many lives, they also leave the majority of North Koreans in a more vulnerable condition. When only a handful of North Koreans make it through to the foreign embassies, the majority of those who cannot afford to pay to be smuggled face harsher conditions under tighter crackdowns or forced repatriation. Third, the NGOs ignore the domestic jurisdiction by assisting illegal border-crossing, and undermine anti-corruption measures by bribing the authorities for the sake of saving North Koreans. Most of these transit states in South-East Asia are developing countries, where the rule of law and democracy is less settled. NGOs and missionaries all from developed countries, who are supposed to respect human rights, the rule of law and democracy, are breaching the very fundamental democratic principle of transparency and anti-corruption in the name of humanitarianism. Fourth, the NGOs undermine the role of the formal diplomatic channels and

overlook the delicate diplomatic relations among the relevant states, especially the troubled inter-Korean relations. The states involved prefer to pursue “quiet diplomacy” behind closed doors and the NGOs have acknowledged some success by means of this method - although accurate data that would allow a scholarly analysis is lacking. Fifth, the vast number of North Koreans coming into South Korea through South-East Asia makes the proper vetting procedure hasty, which consequently raises security concerns by allowing DPRK spies to enter the ROK. Remittances from North Koreans in the South to their remaining family members in the North, through brokers, are another security concern.

The various states hold the key to protecting North Korean refugees. The South-East Asian states are wrestling with their interests with regard to the irregular migration of North Koreans. Many South-East Asian countries have ideological and material bilateral interests with both Koreas, but also have concerns in the regional and international arenas with their image as human rights and humanitarian norm-binding states. So far, Thailand has been the most consistent state-actor. It has clearly constituted its state identity as a humanitarian principled country by not repatriating North Koreans or sending them to South Korea, but by punishing them for illegal immigration according to its domestic jurisdiction. Many other South-East Asian countries are following this model, but still have problems with their corrupted security officers and the lack of consistent and transparent policies towards North Korean refugees. While non-state actors actively form various images and identities of North Korean irregular migrants in China and South-East Asia according to their own religious, commercial or philanthropic interests, each state involved is still struggling to constitute its own interests in dealing with North Koreans in relation to security, economic and diplomatic, as well as normative, concerns in varying degrees.

NOTES

1. Ministry of Unification, Republic of Korea, 2010, <http://unikorea.korea.kr/gonews/main.do?siteId=unikorea> (accessed 30 September 2011).
2. In this paper, for Romanization of the Korean language, I use the McCune-Reischauer system.
3. This is also the author’s personal encounter with one DPRK diplomat who she met in Geneva, Switzerland, and with several other North Korean defectors, who she met in South Korea. North Korean women refer to their husbands as “chuin”, which means “master” in Korean.

4. See World Refugee Survey (2009). China also hosted more than 319,000 refugees from Viet Nam, mostly ethnic Chinese, who fled from Viet Nam during and after the Sino-Vietnamese War in the early 1980s.
5. A group of forty-two North Koreans disguised as local construction workers, with makeshift ladders, climbed over the wall of the Canadian Embassy in September 2004: see *The World Today* (2004).
6. The People’s Daily said in 2005 that the Public Security Bureau arrested 26,636 traffickers and rescued 51,164 women and children in 2001-4. The Decision on the Severe Punishment of Criminals Engaged in Trafficking and Abducting Children and Women was adopted by the Standing Committee of the National People’s Congress on September 1991. In 1994, the committee passed the Supplementary Provisions on the Severe Punishment on the Crimes of Trafficking. The 1997 Revised Criminal Law also included provisions on trafficking in persons or organizing illegal border crossings.
7. According to the 1960 and 1961 bilateral treaties, as well as the 1986 accord and the 1998 ordinance, illegal border-crossing North Koreans should be forcibly repatriated to North Korea.
8. According to a South Korean missionary who has helped North Korean refugees in Thailand since 2005, in 2009, 85 per cent of the North Koreans who arrived in South Korea had come through these five South-East Asian countries. The government-funded Korea Institute for National Unification (KINU) has said that 75 per cent of the North Koreans entering South Korea in 2008 were from South-East Asia (KINU, 2009).
9. For ethical reasons, details of the South Korean missionaries or brokers cannot be identified in this paper.
10. Three teenagers were arrested near the Mekong River by the Laotian security and detained in prison for 5 months in 2007. The DPRK Embassy staff visited the teenagers and they were on the verge of being repatriated to North Korea. A Japanese NGO worker, Kato Hiroshi, from the Life Funds for North Korean Refugees, held a press conference about the situation of the three teenagers and they were finally handed over to the ROK Embassy in Laos (see LFNKR, 2007).
11. These figures are suggested by a Bangkok-based South Korean missionary who has been helping North Koreans smuggled from China to neighbouring third countries. The figures have increased from US\$53 or 5 days in jail for illegal entry at the Chiang Rai immigration court cited in the 2006 report of the International Crisis Group (2006: 22).

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