



Title	What has China done for the global refugee problem in the past 20 years? : should China do more?
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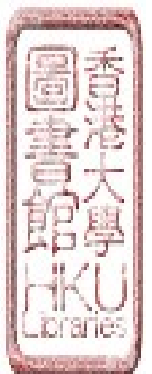
MIPA 2015-2016

POLI6031 Capstone Project

**Topic: What has China done for the global refugee problem in the
past 20 years? Should China do more?**

Supervisor: Prof. Al. Reyes

**Submitted by: BAUMAN Peter Isaac, CHEONG Ka Chon,
LAM Hoi Chi and LAU Ka Ping**



Part I by CHEONG Ka Chon

Overview of the Refugees Issues in China

In the recent report released by the United Nations High Commissioner for Refugees (UNHCR), global forced displacement has seen accelerated growth in 2014, reaching unprecedented levels.¹ The year saw the highest displacement on record. By end-2014, 59.5 million individuals were forcibly displaced worldwide as a result of persecution, conflict, generalized violence, or human rights violations.² This is 8.3 million persons more than the year in 2013 (51.2 million) and the highest annual increase in a single year.³ The ongoing crisis in the Syrian Arab Republic, Afghanistan and Somalia, and new conflicts in the Central African Republic, South Sudan, Ukraine, and Iraq have caused suffering and massive displacement in 2014.⁴ Of the 59.5 million forcibly displaced individuals, 19.5 million are refugees and 1.8 million are asylum-seekers.⁵ These groups of individuals involved cross-border displacement from their origins to the hosting countries. The remaining 38.2 million individuals were forced to displace their home but who remain within their country's border. While the origins of refugees were from the least developed countries, the developing regions hosted 86 per cent of the world's refugees, accounting for 12.4 million individuals.⁶ The top refugee-hosting country is Turkey, hosting, estimated by its government, roughly 1.59 million individuals. It is followed by Pakistan which hosts approximately 1.51 million individuals. China ranks top 10 in the table,

¹ UNHCR. (2015). Global Trends Forced Displacement in 2014. Retrieved May, 2016, from <http://www.unhcr.org/556725e69.pdf>

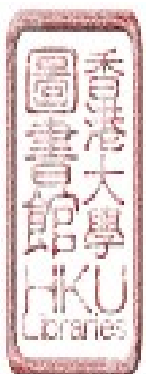
² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.



reportedly hosting more than 300,000 refugees.

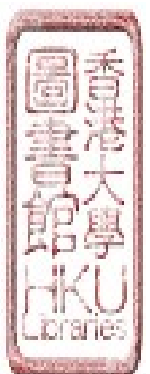
China's refugee settlement has been a stalemate since late 1970s and early 1980s. The last time China's large scale refugee settlement was during and after the Sino-Vietnamese war. About 300,000 refugees from Vietnam, Cambodia, and Laos were resettled in rural areas in southwest China, the area that bordering the conflicting zones.⁷ This number reflects the fact that China had almost stopped receiving new refugees for more than 30 years. Aside from the Vietnamese, who were mainly of Chinese ethnic origin, China has only about a thousand refugees, mostly from African countries.

In the mid-1990s, there were an estimated 20,000 – 30,000 North Koreans crossed the border of China and sought humanitarian protection because of famine-induced social instability in North Korea. Some sources even state that the numbers were as high as 300,000 at the peak.⁸ Instead of offering settlement as in the case of Vietnamese, the Chinese government strictly enforced repatriation to those North Korean border crossers by defining them as economic migrants to whom China held no international protection obligation.

In mid-2011, an estimated 7,000 – 10,000 Burmese individuals fled into China because of the Burmese civil war in the northeast region of Kachin. As a consequence of this civil war and of the well-founded fears of persecution from the Burmese government, Burmese citizens fled into China are prima facie refugees under the

⁷ Pan, L. (2016). Why China Isn't Hosting Syrian Refugees. Retrieved May, 2016, from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>

⁸ Lam, J. (2013). China's Refugee Policy in Comparison. Retrieved May, 2016, from <http://www.e-ir.info/2013/08/25/chinas-refugee-policy-in-comparison/>



Convention.⁹ China, similar to the case of North Korea, rejected the refugee status of Burmese people and force repatriation of Burmese people was taken place.

UNHCR always advocate the three traditional types of durable solutions for the refugee population under its mandate throughout the year, i.e. voluntary repatriation, resettlement, and local integration.¹⁰ Though China has been strict in taking in new refugee cases after the large influx of Vietnamese in the 1980s, the durable solutions offered to those Vietnamese refugees have highly been recognized and praised. At the height of the Vietnamese exodus, government buildings, homes and schools were emptied to shelter them.¹¹ The Chinese government gave the new arrivals housing and jobs, many of them in state-run farms or factories set up especially for the Vietnamese.¹² Within a decade, many of the Vietnamese had been issued with identity cards and the household registration documents that entitle holders to government-subsidized education and welfare.¹³ Some were given Chinese passports and have full rights as Chinese citizens.¹⁴ In 2006 António Guterres, the UN's High Commissioner for Refugees, described this as "one of the most successful integration programmes in the world".¹⁵

All these events reflect the fact that while China has been capable in offering local integration to refugees, the Chinese government has been picky in deciding which

⁹ Ibid.

¹⁰ UNHCR. (2016). Solutions. Retrieved May, 2016, from <http://www.unhcr.org/solutions.html>

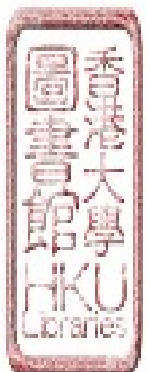
¹¹ The Economist. (2015). Almost Home. Retrieved May, 2016, from <http://www.economist.com/news/china/21672335-china-has-successfully-absorbed-many-refugees-vietnam-it-ill-prepared-another>

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ UNHCR. (2006). Statement to media by Mr. António Guterres, United Nations High Commissioner for Refugees, on the conclusion of his Mission to the People's Republic of China, Beijing, 23 March 2006. Retrieved May, 2016, from <http://www.unhcr.org/admin/hcspeeches/4427aae04/statement-media-mr-antonio-guterres-united-nations-high-commissioner-refugees.html>



categories of individuals are favorable for it to offer help. China has not been doing enough to honour and be abided by the international legal regime as rule of law, in theory, should be practice in accordance with objectivity and impartiality. The section below however demonstrates the legal frameworks on refugees alone are weak, if not incompetent, in pushing countries to do more.

China's Legal Framework on Refugees

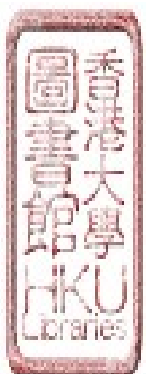
The right to seek asylum in China is prescribed in accordance with the Chinese Constitution and the domestic laws, together with the 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees acceded to and signed in 1982.¹⁶ Article 32 of the Chinese Constitution stipulates that “China may grant asylum to foreigners who request it for political reasons.”¹⁷ Article 15 of the Law on the Control of Exit and Entry of Aliens further prescribes that “aliens who seek asylum for political reasons shall be permitted to reside in China upon approval by the competent authorities of the Chinese Government.”¹⁸ In the new Exit-Entry Administration Law promulgated on 30 June 2012, Article 46 further allows applicants for refugee status to remain in China during the refugee status determination process with temporary identity cards issued by the public security organs.¹⁹ If granted refugee status, individuals may stay and reside in China and obtain a refugee identification certificate. While the status of international treaties in the Chinese legal system remains unclear, domestic incorporation plays an important

¹⁶ Liu, G. (2011). *Chinese Immigration Law*. Burlington, VT: Ashgate. P.89-92.

¹⁷ The National People's Congress of the PRC. (2004). Constitution of the PRC. Retrieved May, 2016, from http://www.npc.gov.cn/englishnpc/Constitution/node_2825.htm

¹⁸ The National People's Congress of the PRC. (1986). Law of the People's Republic of China on Control of the Entry and Exit of Aliens. Retrieved May, 2016, from http://www.china.org.cn/living_in_china/abc/2006-10/19/content_17964969.htm

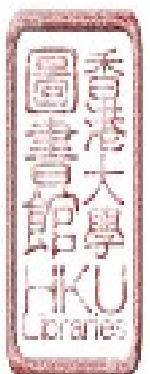
¹⁹ The State Council of the PRC. (2012). Exit and Entry Administration Law of the People's Republic of China. Retrieved May, 2016, from http://english.gov.cn/archive/laws_regulations/2014/09/22/content_281474988553532.htm



role to give effect to China's international obligations in implementation. However, China has yet to comprehensively absorb these standards into domestic law and does not administer a refugee status determination system, although it allows the UNHCR office in Beijing to consider some refugee claims.

As mentioned, China has at the time being a large numbers of refugees, including approximately 300,000 ethnically Chinese Vietnamese who arrived between 1978 and 1982, and who are now considered being largely integrated into Chinese society. But their status has yet to be finalized. China has taken steps towards legislative reform to incorporate refugee protection in response to such small number of legal provisions about asylum seekers or refugees. These are still in preliminary stage and do not provide imminent solutions to solve the legal vacancy. The chance to have a more comprehensive domestic legal framework in the coming future is very slim. However, UNHCR and the Chinese government have engaged in ongoing discussions about legislation. In its report submitted to the Committee on Economic, Social and Cultural Rights in 2010, China noted that it has maintained good cooperative relations with UNHCR and in recent years, China and the UNHCR Representative in China have jointly launched a series of cooperative projects, including training workshops and seminars covering issues such as emergency aid in refugee crises, refugee legislation, and refugee screening procedures.²⁰ China looks positive in continuing support to international protection work for refugees even though the legal reform progress remains sluggish. As the legal aspect of refugee in China is weak and vague, the refugee policies implemented by the Chinese government would likely be instead a

²⁰ United Nations Economic and Social Council. (2012). Second periodic reports submitted by States parties under articles 16 and 17 of the Covenant. Retrieved May, 2016, from <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6QSmlBEDzFEovLCuW%2BALqOml1btoJd4YxREVf2VUQvtGDB9VvkqYydzwaFTAJ1D9JP%2Fr%2FKwWL%2F1K6xZqjIkiujDKnyzx0tWJN0EuixfYs1KXnd2FvF6OkWVoAr8Li>



mixed political consideration which is subject to the challenge of a variety of factors.

The Chinese legal framework on refugees is weak and vague as illustrated in the previous part. This inevitable bring in political and diplomatic aspects which often prevail over the international protection instruments. The Chinese government has record in refusing protection to certain groups of refugees arriving from some countries and denied them access to the UNHCR for political reasons.

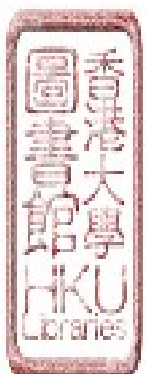
For instance, China has refused, and continued to refuse, to allow North Korean asylum seekers to remain in China pending determination of their status, forcibly removing them regardless of evidence of likely persecution upon return.²¹ China has justified this practice by denying they are refugees and labelling them as economic migrants which lies outside the scope of its refugee protection policy. Scholars have suggested that China's desire to maintain its relationship with North Korea has played a role in this situation.²² Human Rights Watch has reported that Chinese authorities have also forcibly returned large numbers of Kachin asylum seekers who fled from Myanmar since 2011.²³ The Chinese refugee policies consider this group of individuals arriving from Myanmar unworthy of protection and refuse them access to refugee status determination procedures prior to deportation.²⁴ This violates the principle of non-refoulement laid in the Refugee Convention. The UN human rights treaty bodies have raised these issues when considering China's periodic reports and

²¹ Loper, K. "The Protection of Asylum Seekers in East Asian State Parties to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol", In Abass, A., & In Ippolito, F. (2014). *Regional Approaches to the Protection of Asylum Seekers: An International Legal Perspective*. P347-376.

²² Nanto, D, & Manyin, Mark. (2010). China-North Korea Relations. Retrieved May, 2016, from <https://www.fas.org/sgp/crs/row/R41043.pdf>

²³ Human Rights Watch. (2012). China: Refugees Forcibly Returned to Burma. Retrieved May, 2016, from <https://www.hrw.org/news/2012/08/24/china-refugees-forcibly-returned-burma>

²⁴ Loper, K. "The Protection of Asylum Seekers in East Asian State Parties to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol", In Abass, A., & In Ippolito, F. (2014). *Regional Approaches to the Protection of Asylum Seekers: An International Legal Perspective*. P347-376.



called on the Chinese government to address its lack of compliance with international human rights and refugee protection standards.²⁵ For example, in 2005 the Committee on Economic, Social and Cultural Rights expressed concern “that non-citizens, including asylum-seekers, refugees and stateless persons, are excluded from the constitutional guarantees to the enjoyment of rights and freedoms enshrined in the Covenant extended to all citizens in the State party”.²⁶ It further noted “that some asylum-seekers are excluded by the refugee determination procedure of the State party, in particular those coming from North Korea, who are regarded by the State party as economic migrants and are thus compelled to return to their countries”.²⁷ They also suggested that China adopt “subsidiary forms of protection to guarantee the right to remain for persons who are not formally recognized as refugees but are seeking asylum and nevertheless require protection during that period” and allow UNHCR and humanitarian organizations access to them.²⁸ In 2009, the Committee on the Elimination of Racial Discrimination recommends China to adopt legislation relating to refugee status as soon as possible and take all necessary legal and policy measures to ensure that all asylum-seekers have the merits of their individual cases considered by an independent and impartial authority.²⁹

Implications

It is noteworthy that China had received refugees from Vietnam even before it acceded to the Convention and the Protocol. Hence, the international refugee regime had limited influence during the stage of receiving Vietnamese refugees. The

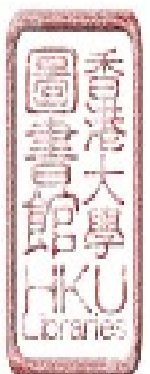
²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ UNHCR. (2013). Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: People's Republic of China. Retrieved May, 2016, from <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=621&file=EnglishTranslation>



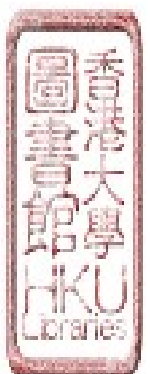
international obligations might be useful for China to devise policies to the Vietnamese refugees for their way out when they were already in its border, but played a very limited role as a guiding principle in determining whether it should receive or reject an incomer with a humanitarian claim. As reflected in the cases of North Korea and Myanmar, the Convention and the Protocol failed to compel China to open case files for those incomers before repatriation. It is fair to again conclude that legal obligation is weak and vague in that the Chinese government is never bound by the provisions it has agreed upon.

While mere geography is inadequate to explain the choice of a country, a broader analytical dimension is required in order to better grasp the complexing picture. Refugee policies can be put into a broad protection spectrum. One end of the spectrum is the policies that have enacted comprehensive refugee laws for refugee status determination and offering reception conditions including the right to work. At the other end of the spectrum is the countries with few relevant legal provisions, a lack of refugee status determination, and inconsistent approaches toward refugee arrivals that may be influenced by a greater degree by political or foreign policy considerations.³⁰ China appears to be situating itself in the later end of the spectrum. This paper attempts to incorporate additional perspectives and look at China in different dimensions in order to transcend the platitude of the ordinary China refugee policies analyses.

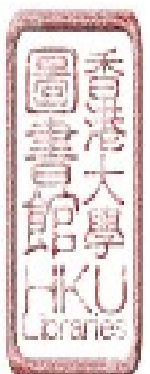
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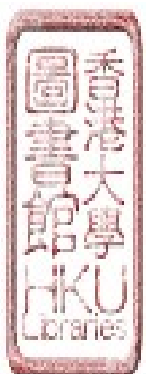
³⁰ Loper, K. "The Protection of Asylum Seekers in East Asian State Parties to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol", In Abass, A., & In Ippolito, F. (2014). *Regional Approaches to the Protection of Asylum Seekers: An International Legal Perspective*. P347-376.



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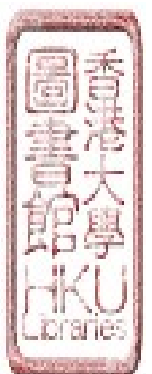
Part II by LAU Ka Ping

After the discussion on the refugee problems facing China and the weak legal basis of the existing Chinese refugee policies, this part provides an evaluation of the Chinese refugee policy from a domestic perspective and argues that there are no well-established rules and regulations governing the decision-making process of refugee policy. The decision is made on case-by-case basis with the maintenance of social stability as the most important consideration. This part of paper also compares the Chinese refugee policy with two other most important world powers, the United States and the Russian Federation. By such comparison, this part of paper tries to show that China's refugee policy is lack of organization, clarity and consistence and there is a need for more government commitment for the proceduralize of the whole refugee regime. It is also argued that such change will not be in disadvantage with China's national interest, instead it is necessary with the changes associated with China's rise.

Evaluating Chinese Refugee Policy from the Domestic Angle

In order to evaluate Chinese refugee policy from the domestic perspective, it is necessary to identify the decision- making process of the refugee policy and the domestic factors shaping it. As China still views refugee crises as largely a state-to-state affair and continues to adopt a case-by-case approach regarding the refugee problem, how Chinese government perceive the refugee problem is still the predominant factor affecting the decision making process.

In addition to the government' s perception, four domestic consideration factors, namely, ethnic ties, economic development, regional security and geopolitics, and



social security are identified as the key considerations for decision making of the refugee policy. How these factors shaped the existing policy would be illustrated with the North Korea and Vietnam cases.

Refugees as a Problem to the Chinese Government

With its rapid economic growth, China has also witnessed a rapid growth in the number of persons seeking refuge in the past 20 years. It also serves as the gateway for North Korean ‘refugees’ to escape from their home country. In August 2015, there were 795 UN registered ‘persons of concern’, or displaced people, mainly from Somalia, Nigeria, Iraq, and Liberia living in China temporarily while waiting to be transferred.

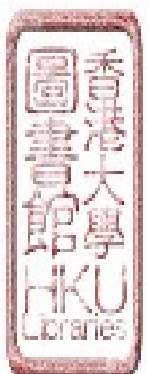
Moreover, according to the Fund for Peace’s Failed States Index 2013, five of China’s neighbouring countries, namely Afghanistan, North Korea, Pakistan Myanmar, and Nepal, fall within the ‘Alert’ category, which means these countries have the highest vulnerability to collapse or conflicts among the 177 countries assessed in the index.

China’s future exposure to refugee issues should not be underestimated.³¹

The Existing Policy

Despite being one of the first Asian States to accede to the 1952 Convention relating to the Status Refugees (the Convention) and its 1967 Protocol (the Protocol) and its ratification in 1982, China has incorporated few provisions of these instruments into domestic laws and is not equipped with an adequate legal framework for refugee

³¹ Song Lili. “Refugee Protection in China: Recent Legal and Policy Developments” published on 1 September 2014 on “Rights in Exile”. Accessed on 17-03-2016 from <http://rightsinexile.tumblr.com/post/96365498957/refugee-protection-in-china-recent-legal-and>



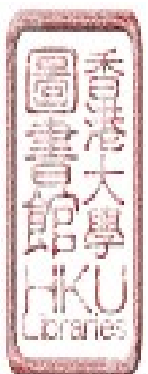
protection nor does it have a national refugee status determination (RSD) mechanism at the moment. Chinese authorities have not substantially engaged themselves in the United Nations High Commissioner for Refugees (UNHCR) RSD process.³²

China does not have a RSD mechanism at present. In 1980, the UNHCR was allowed to establish an office in Beijing to process individual applications for refugee status. Asylum seekers applying for refugee status in China must make their claims to be the UNHCR Office in Beijing, which is the only organization that process individual refugee status applications in China. The Chinese government declined UNHCR's request to access and conduct RSD for certain groups of displaced persons who were regarded as non-refugees by the Chinese government. Generally speaking, UNHCR process individual applications for refugee status in China whereas the Chinese government has de facto determined the displaced persons who arrived in China in large numbers through policy decisions.³³

Although the Exit-Entry Administration Law, enacted on 1 July 2013 which Article 46 stipulates that 'Foreigners applying for refugee status may, during the screening process stay in China on the strength of temporary identity certificates issued by public security organs, foreigners who are recognized as refugees may stay or reside in China on the strength of refugee identity certificates issued by public security

³² Song Lili. "Refugee Protection in China: Recent Legal and Policy Developments" published on 1 September 2014 on "Rights in Exile". Accessed on 17-03-2016 from <http://rightsinexile.tumblr.com/post/96365498957/refugee-protection-in-china-recent-legal-and>

³³ Song, Lili. The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status, A thesis submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington. Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705>



organs' it does not spell out who qualifies as a refugee or the procedures for refugee status application and determination.

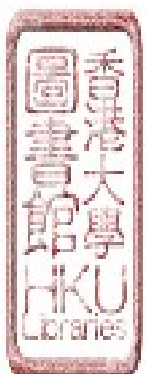
Yet, some improvements and reforms are seen in the most recent years. According to the state report submitted by the Chinese government to the UN Committee on the Elimination of Discrimination against Women in early 2012, the Rules for Identification and Administration of Refugees has been drafted and would provide for the refugee definition, competent authorities in charge of refugee affairs, RSD, temporary stay and repatriation of refugees, and loss and removal of refugee status.

Government Authorities Responsible for the Refugee Regime

Three government bodies officially have the responsibility to deal with refugee matters: the Ministry of Civil Affairs and its Offices of Reception and Settlement of Indochinese Refugees (MCA and ORSIRs), the Ministry of Foreign Affairs (MFA) and the Ministry of Public Security (MPS).

The MCA scheduled a leading role from a very early stage of China's reception of the Indochinese refugees.³⁴ The ORSIRs under the MCA are UNHCR's implementing partners for local settlement and voluntary repatriation of the Indochinese refugees. The MCA is also given the task of drafting China's national refugee regulation which marks the important and planning role it is going to play in China's national RSD mechanism in the future. In particular, ORSIRs' operation network and their staff with

³⁴ Song, Lili. *The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status*, A thesis submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington. Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705>



experience of dealing with Indochinese refugees and implementing UNHCR assistance programmes would be valuable sources upon which the Chinese government can draw to build its national refugee protection system.³⁵

The MFA is a key player in handling refugees in China. As China generally relied on non-public diplomatic negotiations to tackle the refugee problem on an ad hoc and case-by-case basis, the MFA was involved in negotiations with relevant foreign embassies and consulates for asylum. In addition, MFA is also responsible for liaising with the Office of UNHCR Beijing Office and is the Chinese government best informed of the international refugee protection regime.³⁶

The MPS involves in refugee matters in two-fold. Firstly, public security authorities are responsible for issuing refugee identity cards to refugees and temporary identity cards to asylum seekers and secondly, they are in charge of border control.³⁷

Government's Perception on the Refugee Problem

The refugee issue has not been a priority on the political agenda or at the center of public attention in China.³⁸ China still views refugee crises as largely a state-to-state affair and continues to adopt refugee policies that are predominantly driven by its own interests and motivations.³⁹ Despite being one of the earliest signatory of the relevant

³⁵Song, Lili. *The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status*, A thesis submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington.

Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705>

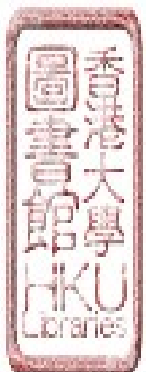
P.130

³⁶ Ibid. p.131

³⁷ Ibid.P.132

³⁸ Ibid.

³⁹ Dong, J.Lesile. "Asian Refugees: The Case of China, Vietnam, North Korea, and the International Community."



international protocol, China is not committed in the acceptance of refugees. There is no clear definition provide for who would be regarded as refugees and should be provided with protection. Moreover, flexible and case-to-case approach is used in the resolution of refugee problems resulting in the lack of a consistent legal framework to deal with the refugee issues.

The Chinese government trades the refugee issue as sensitive with few publications or discussion or systematic research is allowed. China has been cautious about recognizing refugees and would prefer flexibilities on the issue.⁴⁰

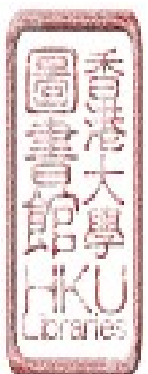
Moreover, Chinese government is reluctant in the acceptance of refugees as it perceives the refugee problems, especially those happening in Eastern Europe including the Syrian crisis as the responsibility of the European countries. The ‘European refugee crisis is a price’ that Western countries must pay for their ‘arrogance’ and China has no responsibility to share the burden with them.⁴¹

China lacks a clearly defined definition of a refugee, Chinese discourse has rarely referred to these people as “refugees”, instead, China has often referred to these displaced people with other classifications such as “returnees”, “economic migrants” and “escapees” throughout history. While China does have the term “refugee” it

(2015). Undergraduate Honors Theses. Paper 778. P.4

⁴⁰ Pan, Liang. “Why China Isn’t Hosting Syrian Refugees”, published on 26 February 2016 on Foreign Policy. Accessed on 17-03-2016 from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>

⁴¹ Pan, Liang. “Why China Isn’t Hosting Syrian Refugees”, published on 26 February 2016 on Foreign Policy. Accessed on 17-03-2016 from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>



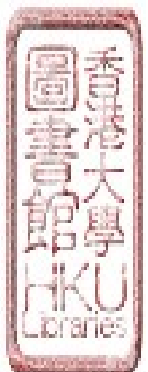
usually refers to refugees seeking asylum in countries outside of China instead of refugees entering into the Chinese mainland. China's definition of a refugee does not align with the UN showing that it does not carry out refugee relief efforts based on the international agreements it signed. China's recent treatment of the North Korean refugees clearly violates the international resolution. China refused to acknowledge the North Korean as refugees and regarded them as 'illegal economic migrants'. The Chinese government has also actively rounded up and deported all such "escapees" back to North Korea.⁴² These provide evidence supporting the lack of commitment of China's government in the protection of refugees' rights.

In addition to the non-committed attitude, China might not have had a good understanding of its obligations under the UN Convention and Protocol or given a careful thought of its capacity and willingness to commit to these instruments. For example, in 1989, the Jiangxi Province Resident ID Issuance Office submitted an enquiry to the MPS regarding the Indochinese refugees' eligibility for Chinese ID cards where the Jiangxi officials referred the Indochinese refugees as 'guiguo nan-min' (refugees who returned to China), which obviously confusing the concept of refugees and returning 'hua-qiao' (overseas Chinese).⁴³ MPS's reply which either neglected or intentionally omitted the requirement of persecution is also a good example of Chinese official's poor understanding of the refugee definition as stated in the UN Convention and Protocol.⁴⁴

⁴² Dong, J.Lesile. "Asian Refugees: The Case of China, Vietnam, North Korea, and the International Community." (2015). Undergraduate Honors Theses. Paper 778. P.9

⁴³ Song, Lili. The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status, A thesis submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington. Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705> p.83

⁴⁴ Song, Lili. The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status, A thesis



Another example is the notice issued by the MPS in 1992 on the handling of aliens illegally entering or staying in China. The notice required local level public security authorities to repatriate every alien illegally entering or staying in China ‘regardless of whether they have registered with UNHRC’, emphasizing that ‘UNHRC’ shall not intervene in China’s sovereign matter’ is clearly a misinterpretation of the assumed responsibility under the international convention.⁴⁵

China’s denial of the refugee status and decline of UNHCR’s requests of accessing the displaced foreigners in the three mass refugee inflows since the mid-1990, namely, the North Korean escapes, the displaced Kokangs and the displaced Kachins, is another example.⁴⁶

China’s non-committed attitude towards the refugee problems and its misconception or even distortion of the international convention explained why the refugee policy is so case-to-case base which the only calculation is the maximization of national security and interest.

Domestic factors affecting China’s perception on refugee problem

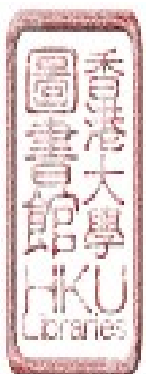
The Chinese refugee policy is predominantly mobilized by the calculation of national interest. China will prioritize security and stability when formulating its refugee

submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington.

Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705> p.84

⁴⁵ Ibid.

⁴⁶ Ibid.



policies.⁴⁷ Ethnic ties, economic development, regional security and geopolitics, as well as social security are identified as the factors of consideration affecting the Chinese government's decision making on the refugee problem.⁴⁸ The following part will look at how different factors drive China to adopt certain refugee policies over others.

Ethnic Ties

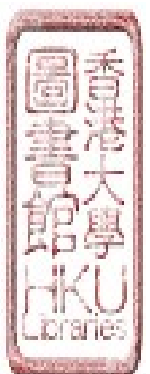
One of the factor which the Chinese government will be considering during the decision-making process is 'Whether there're close ethnic ties between incoming refugees and the Chinese populace is one of the major consideration for affecting the acceptance and on-acceptance of refugee?'⁴⁹

A variety of rationales have been adopted that attempt to explain why states are likely to grant preferential immigration rights to 'co-ethnics'. The Theory of Counter-Diasporic Migration and Ethnically-Privileged Migration refer to the return of later-generation diasporic descendants to an ancestral homeland. If a state regards itself as an ancestral homeland, it feels compelled to not only provide for the current citizens that reside within its borders, but to also act as a protector of co-ethnics in times of distress. By preserving this image, a state can gain support from the greater pan-ethnic community and can entitle a state to a variety of benefits. It can help legitimize a state's political power, channel in outside investments or can even translate into 'political mileage for ruling elites acting in the name of national interest

⁴⁷ Dong, J.Lesile. "Asian Refugees: The Case of China, Vietnam, North Korea, and the International Community." (2015). Undergraduate Honors Theses. Paper 778. P.4

⁴⁸ Ibid.

⁴⁹ Ibid.. P.11



and wider state security'. For example, the Israel's Law of Return and the nikkeijin's return to Japan.

China has one of the largest land masses in the world as well as the largest number of bordering states. China has to secure borders between 14 different countries. Because of the inherent challenges of securing its borders, throughout the history, China's narrative of nationhood is more static and exclusive.⁵⁰ It emphasizes shared history and common heritage and rhetoric focuses on the symbiosis of the 56 recognized ethnic groups only. Non-interference in other countries domestic affairs is the cornerstone of its foreign policy and accepting refugees is often viewed as demonstrating a political preference of the country of origin.⁵¹ Chinese political ideology actively discourages the acceptance of non-Chinese migrants.

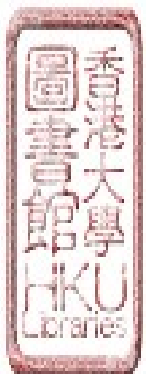
Moreover, China is cautious with the problems associated with ethnic minorities. Uprisings and terrorist activities in the self-administration region in Xin-jiang and Tibet etc., are considered as significant threat towards the integrality and stability of China's government. Taking in number of Muslim refugees from Middle East could further complicate China's religious landscape and identity politics, meaning instability and threats to national security.

Economic Development

Another consideration is 'Whether the perceived economic costs of receiving the

⁵⁰ Dong, J.Lesile. "Asian Refugees: The Case of China, Vietnam, North Korea, and the International Community." (2015). Undergraduate Honors Theses. Paper 778. P.7

⁵¹ Pan, Liang. "Why China Isn't Hosting Syrian Refugees", published on 26 February 2016 on Foreign Policy. Accessed on 17-03-2016 from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>



refugees are greater than the perceived economic benefits?’ According to the UN Social and Economic Impact of Large Refugee Populations on Host Developing Countries, the large refugee populations can either put a huge strain on a receiving country’s economy or positively spur economic growth. While it can strain all economic resources and pit refugee populations against local communities in competition for resources, leading to greater demands on public services such as education and health facilities etc., refugee population brings in a valuable new source of labour which helps to open up and develop the entire country and attract outside investment.⁵²

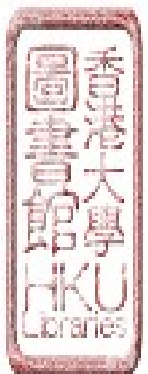
China’s rapid economic development presents a luring opportunity for people from bordering states. China’s relative economic prosperity in comparison to its neighbouring states incentivized people to leave their native countries and enter into China to escape poverty.⁵³ However, there is little public support for refugee resettlement and economic concern in China as most of the Chinese people perceive refugees as economic burdens rather than useful source of labour and productivity. Given the substantially slowing economic growth in these few years, people expect the government to use its financial resources to fix the economy but not helping foreigners.⁵⁴

Regional Security and Geopolitics

⁵² Dong, J.Lesile. “Asian Refugees: The Case of China, Vietnam, North Korea, and the International Community.” (2015). Undergraduate Honors Theses. Paper 778. P.14

⁵³ Ibid. P.8

⁵⁴ Pan, Liang. “Why China Isn’t Hosting Syrian Refugees”, published on 26 February 2016 on Foreign Policy. Accessed on 17-03-2016 from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>



As mentioned before, China is a vast country sharing borders with 14 other countries. Each of the 14 border regions has different security challenges that must be handled differently in each location. Despite this, as Li Guogang, deputy director of the Chinese Academy of Social Sciences Center for China's Borderland History and Geographical Studies said, 'China has a single border policy and it's quite simple: stability'. Stability of border is of paramount importance for China's government.⁵⁵

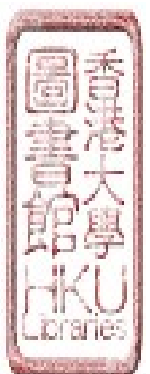
China tends to view refugees and large influxes of people moving in between Chinese borders as a great threat to national security. China is extremely cautious and will strategically select and allow refugees to enter into its borders based on the geographic region that the refugees originate from, as well as the susceptibility of these regions to political uprisings, ethnic tensions, and humanitarian crisis.

China will be more likely to accept refugees from regions that are of less strategic value such as Southeast Asia versus regions that are of great strategic value like Northeast Asia in fear that accepting any refugees will have severe ramifications in the stability of the region and in mainland China.

Social Security

China's greatest political priority is to maintain stability at home. China's consistent emphasis on maintaining social security is due to the unique challenges of governing the state. The sheer mass and largest population of China and a rich diversity of ethnic groups, languages, and customs making China needs to govern can easily exacerbate

⁵⁵ Dong, J.Lesile. "Asian Refugees: The Case of China, Vietnam, North Korea, and the International Community." (2015). Undergraduate Honors Theses. Paper 778. PP.17-19



any domestic issues within the country, making social security not only an ideal condition but a necessity in order to govern China. China will likely examine and evaluate the projected social costs of accepting large influxes of refugees.⁵⁶ These social costs will account for all the domestic resources that will need to be allocated to the refugees upon arrival which include land, housing, jobs and food as well as concerns about the impact the refugees will have on local communities. China may also have fears that incoming refugees will cause social unrest, increase the rate of crime, and exacerbate ethnic tensions.⁵⁷

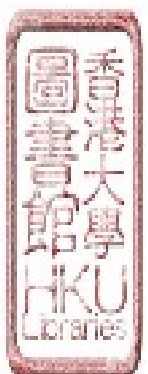
China's different treatment on the refugees from North Korea and Vietnam

China's policy on the North Korean refugees is one of the best examples showing how its refugee policy is affected by its calculation of cost and benefits on national interest based on the above factors. The North Korean refugees were unfamiliar with Chinese culture and unable to speak Chinese languages. This made it significantly more difficult for North Korean refugees to integrate into Chinese society than Vietnamese refugees. Moreover, China feared that their presence would upset the ethnic balance in the northeastern provinces and aggravate ethnic tensions between the Korean-Chinese and Han. Accepting the North Korean refugees on the other hand, would jeopardize all cross-border trade between China and North Korea. The refugees would also compete with local Chinese citizens for jobs in regions that already experience high levels of labour unrest and instability.⁵⁸

⁵⁶ Dong, J.Lesile. "Asian Refugees: The Case of China, Vietnam, North Korea, and the International Community." (2015). Undergraduate Honors Theses. Paper 778. Pp.20-21

⁵⁷ Pan, Liang. "Why China Isn't Hosting Syrian Refugees", published on 26 February 2016 on Foreign Policy. Accessed on 17-03-2016 from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>

⁵⁸ Dong, J.Lesile. "Asian Refugees: The Case of China, Vietnam, North Korea, and the International Community."



Changes in Economic Needs and Population Demography associated with China's Rise

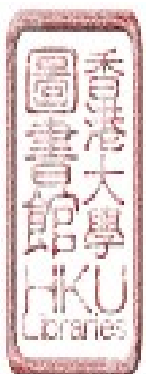
As Ronald Skeldon in 'China: An Emerging Destination for Economic Migration' explains, China is experiencing changes in its demographics because of low fertility rates, skewed gender ratio, and a rapidly aging population, this resulted in two million job vacancies in the southeast coastal region of China in 2004, and labour shortages spread north into the Yangtze River and the north coastal region in 2005. Affected by the one-child policy implemented since the 1980s, it is estimated that premature aging population and looming demographic crisis will take place in the near future in the major cities of China. Immigration could help prevent long-term economic stagnation associated with a shortage of young workers and a growing number of retired dependents.⁵⁹ The growing economic opportunities and the change of population demographic may lead to the more positive attitude towards acceptance of inflowing refugees.

Pressure on Changes from Outside the Country

China's refugee policies are still largely China-centric and driven by self-interest. China continues to view refugee crises as a predominantly state-to-state affair rather than a regional or even global issue. As China rise and having more concern on her international reputation, China is yet to recognize the amount of power and influence it holds in refugee crises.

(2015). Undergraduate Honors Theses. Paper 778. Pp.59-60

⁵⁹ Pan, Liang. "Why China Isn't Hosting Syrian Refugees", published on 26 February 2016 on Foreign Policy. Accessed on 17-03-2016 from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>



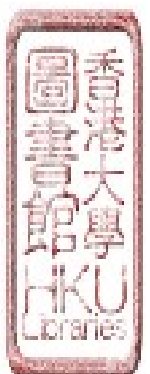
Asian refugee crises are not isolated individual occurrences. While it is relatively easy to solve each refugee crisis in a state-to-state manner and on a case-by-case basis, refugee crises cannot be resolved by adopting the ‘right’ refugee policy. But it is precisely a challenge that is as formidable as this one that calls upon China. China’s policy towards the North Korean will only intensify the future refugee pressure. As Lampton said, the international community imposes a variety of expectations and standards on China, China can take ownership of the pressing refugee issues and use them to redefine its own role and responsibilities in the region. Asia desperately needs its own unique, institutional approach to handling refugee crises and China can be the leader in making this a reality.⁶⁰ There is a call for a more established framework and standardized procedures in the dealing with refugees.

Chinese Refugee Policies in Comparison with Other Powers

In addition to the local needs, by comparing the refugee policies of China, Russia and the United States from different aspects including the role and importance of them in the global refugee issues, their commitment and attitude towards the refugee problems, their legislation framework and policy, their protection given to refugees and those on temporary state, and their cooperation with the UNHRC as well as other international organizations, it is also argued here that China should do more on refugee protection.

Compare to the other two most important leaders in the world, China’s refugee policy is less committed, regulated and providing less human right protection. As we can see

⁶⁰ Dong, J.Lesile. “Asian Refugees: The Case of China, Vietnam, North Korea, and the International Community.” (2015). Undergraduate Honors Theses. Paper 778. PP.62-64



from the comparison, more committed and regulated refugee policy does not necessarily harm national interests. On the other hand, it helps to boost up economic development and international image of the country.

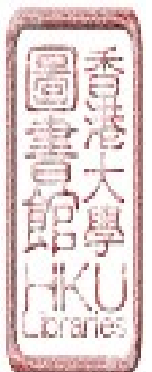
The United States

Clear Legal Framework with an Organized Refugee Resettlement Programme

The U.S. has historically used its immigration parole authority to admit large numbers of persons for humanitarian reasons. In 1968, the U.S. ratified the 1967 UN Protocol relating to the Status of Refugees. The Refugee Act of 1980 enshrined those international obligations into US law which marked the formal creation of the US refugee resettlement programme (RRP) which deal with resettlers from overseas and provide benefits and assistance to refugees, persons granted political asylum (asylees), certain special immigrant visa recipients and others displayed persons (including temporary protection for humanitarian reasons)⁶¹

In US, a refugee is clearly defined as ‘a person who is unable or unwilling to return to his or her own country because of a “well-founded fear of persecution” due to race, membership in a particular social group, political opinion, religion or national origin’ in Section 101(a)(42) of the Immigration and Nationality Act (INA). This definition is tally with that stated in the United Nations 1951 Convention and 1967 Protocols

⁶¹ Kerwin, Donald M., 2011. *Faltering US Refugee Protection System: Legal and Policy Responses to Refugees, Asylum Seekers, and Others in Need of Protection*. Washington, DC. Migration Policy Institute.



relating to the Status of Refugees, which the United States became a party in 1968.⁶²

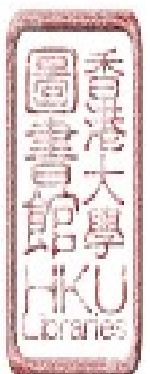
The Refugee Admission Program is jointly administrated by the Bureau of Population, Refugees, and Migration (PRM) in the Department of State, the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services (HHS) and offices within the Department of Homeland Security (DHS). Refugees are classified under three principles categories and need to undergo an extensive interviewing, screening, and security clearance process conducted by Regional Refugee Coordinators and overseas Resettlement Centres.

Refugees are subject to the strictest form of security screening of any class of traveler to the US before they are allowed to enter, with extensive background, security and health checks. The US then investigates and verifies the claims made by an applicant for asylum.⁶³ According to the U.S. Department of State, the entire refugee resettlement can take an average of 18-24 months to complete. These issues have improved in recent years as what Obama said in a 2014 report ‘interagency coordination and processing procedures is as one of the reasons for increased admission of refugees’.

“Matching Grant” Program response to local conditions and state preferences. In early 2010, the government doubled the PRM reception and placement grant to \$1800 per

⁶² Kerwin, Donald M., 2011. *Faltering US Refugee Protection System: Legal and Policy Responses to Refugees, Asylum Seekers, and Others in Need of Protection*. Washington, DC. Migration Policy Institute.

⁶³ “An Overview of U.S. Refugee Law and Policy”, American Immigration Council, accessed on 17.5.2016 from <http://www.immigrationpolicy.org>



refugee which must be used during the first 90 days of a refugee's arrival in the US. The RRP is considered as genius for its ability to build wide-ranging support from refugees, their sponsors participating agencies, political supporters and volunteers.

Government's Commitment

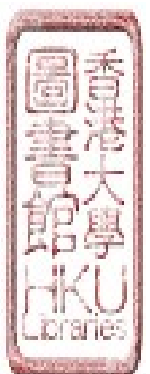
It is US's longstanding commitment to resettling more refugees than any other country including 90% of African refugees. In 2016, the US plans to resettle 85,000 refugees, including at least 10,000 from Syria conflict. The US also emphasized that managing the refugee crisis is a global responsibility.⁶⁴

In addition, US and international officials view the program as an effective foreign policy tool which when coupled with public works and humanitarian assistance projects for host communities, can leverage more generous treatment of refugees abroad. Both President Obama and the US officials working at the refugee realm are proud for the organized refugee policy they have. President Obama defended the US refugee resettlement program by putting forward its effort in finding homes for over 3 million people fleeing war or persecution.⁶⁵

Suzanne Akhras Sahloul of the Syrian Community Network in Chicago also said that, 'We should trust the system that we've built. Europe, they're having just random migration coming in, versus us, we have planned migration coming in' and 'our

⁶⁴ "UNHCR chief welcomes US leadership over global crisis", New Stories published 19 March 2016, accessed on 17.5.2016 from <http://www.unhcr.org/56ed0f4a9.html>

⁶⁵ Kerwin, Donald M., 2011. Faltering US Refugee Protection System: Legal and Policy Responses to Refugees, Asylum Seekers, and Others in Need of Protection. Washington, DC. Migration Policy Institute.



system is much better and the way things are set up are organized and they come through an agency and the agencies keep track of them.’

Moreover Secretary of State John Kerry announced that the US will put more effort into taking refugees from Central America by devoting particular attention to finding and processing refugees in El Salvador, Honduras and Guatemala to bring to the US.⁶⁶

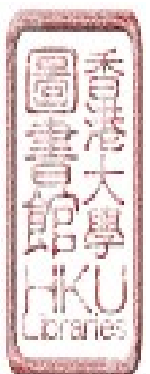
Yet, after the 9/11 terrorist attacks, security and enforcement concerns have driven immigration policy development and the protection policies not kept place. The US refugee system must prevent terrorist and criminal infiltration while enabling those fleeing persecution to reach protection. It must admit vulnerable refugees and promote their successful integration, detect fraud but ensure that bona fide asylum seekers can apply for secure asylum. The system must be meeting its enforcement responsibility and its legal imperatives to protect refugees and similar groups.⁶⁷ New legal and policy options for ensuring that interdiction, expedited removal, and immigration related security programs do not prevent bona fide asylum seekers from reaching territorial protection, as well as ensuring that procedural barriers do not operate as a disincentive to seeking asylum or lead to denials in meritorious cases.

Russia

Russia is a country of asylum and of transit receiving both asylum-seekers and

⁶⁶ “UNHCR chief welcomes US leadership over global crisis”, New Stories published 19 March 2016, accessed on 17.5.2016 from <http://www.unhcr.org/56ed0f4a9.html>

⁶⁷ “2015 UNHCR subregional operations profile – North America and the Caribbean”, accessed on 17.5.2016 from <http://www.unhcr.org/where-we-work.html>

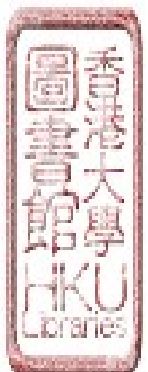


refugees as well as many irregular and regular migrants seeking to reach other European countries. Historically, there has been mass inflow of Russians and russophones from the Commonwealth of Independent States (CIS) countries as a legacy of the Soviet Union breakdown. Refugees from Ukraine and Syria always caused head pain to the Russia government. In 2011, it hosted about 5000 refugees and received some 2500 applications for international protection each year. The refugee work for international organizations in Russia is highly politicalized because of the Soviet Union had been largely hostile towards UNHCR.⁶⁸

Government's Commitment and Attitude

In 1991, a regional office of the UNHCR was set up in Moscow. Partnership between relevant agencies and organizations of the UN system were allowed to develop. In February 1993, Russia became the first of the CIS countries to accede to the 1951 UN Refugee Convention and 1967 Protocol. Russia also took lead in the 1996 Geneva Conference (Full name: Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returners in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States) where participants reviewed the population movements taking places in the region and went on to establish clearer definitions of the different categories of people involved, including refugees internally displaced persons repatriants and 'forced migrants'. Clarifying the definitional issues and identifying the type of movement

⁶⁸ Song, Lili. *The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status*, A thesis submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington. Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705>



involved helped depoliticize the issue. By adopting a Program of Action which on basis of agreed principles, the conference also helped to set out a comprehensive and integrated strategy to address the issue and prevent the emergence of situation which would create further involuntary displacement.⁶⁹ At the international event in Geneva in December 2011, Russia pledged to introduce new measures to reduce statelessness in its territory.⁷⁰

A System Keeps on Improving

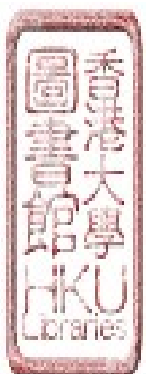
The Federal Migration Service (FMS) is responsible for the refugee problems in Russia. Priority is given to migration management policy by strengthening the FMS. An increasing number of asylum applications were handled by the competent authorities which often resorted to providing a temporary form of protection.⁷¹ In 2011, a comprehensive revision of the draft Refugee Law to ensure its consistency with international standards has been carried out. Progress was made in the development of reception conditions with the creation of an additional reception centre and those given temporary asylum were granted access to state medical insurance.⁷² The Russia also adopt amendment to its citizenship law aims to address stateless people by simplifying procedures for acquiring citizenship. Between 2003

⁶⁹ Song, Lili. *The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status*, A thesis submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington. Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705>

⁷⁰ Pan, Liang. “Why China Isn’t Hosting Syrian Refugees”, published on 26 February 2016 on Foreign Policy. Accessed on 17-03-2016 from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>

⁷¹ “2015 UNHCR subregional operations profile – Eastern Europe”, accessed on 17.5.2016 from <http://www.unhcr.org/where-we-work.html>

⁷² Ibid.



and 2011, some 630000 stateless persons obtained citizenship.⁷³

The problem of accessibility to the system especially at the border areas has also been improving with positive government support. Harmonization of asylum process with the Border Guard Service and the establishment of protection-sensitive airport procedures continued to be promoted.

The Russia government had invested in conflict-affected areas to address developmental imbalances acknowledged the contributions of humanitarian partners and identified its expectation the UNHCR would continue its work in mandated areas such as in building an asylum system and preventing and reducing statelessness.⁷⁴ For the remaining challenges that it expects to address, it also confirmed close working relationship with UNHCR.

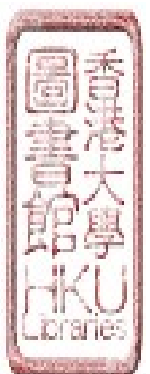
Besides the UNHCR, the FMS also has close working relationship with other international NGOs such as the Red Cross which provides help for refugees and asylum seekers services like legal and social counselling nationwide hotline and day-care centre etc.⁷⁵

In 2015, the first conference of BRICS migration ministers was hosted by Russia in Sochi where important cooperation strategies in the area were discussed which showed Russia's leadership at the issue. Recognising the common lotion that

⁷³ Pan, Liang. "Why China Isn't Hosting Syrian Refugees", published on 26 February 2016 on Foreign Policy. Accessed on 17-03-2016 from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>

⁷⁴ Ibid.

⁷⁵ Ibid.

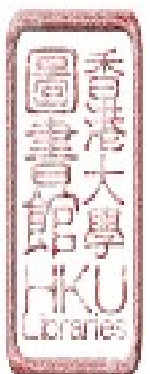


providing skilled migrants with jobs helps reduce immigrant unemployment and enables a more successful integration of migrants in the host country while at the same time benefiting the local economy, Russia try to incorporate refugees into regular Russian life including work, school and language instead of providing aid payments which would allow them to do nothing.⁷⁶ This shows the government's positive attitude in adopting refugees rather than mere exclusion. Despite starting late, Russia is moving fast in improving its refugee policy with a cooperative attitude and proceduralization.

Yet, Russia is being criticized for being reluctant towards the Syrian refugees. Europe received some 430,000 applications for asylum between 2011 and 2015. Of the 12,000 people who arrived in Russia from Syria since 2011, only 2,000 received temporary asylum in Russia. This number pales in comparison with the 100,000 refugees asking Germany for asylum, the 65,000 asking Sweden, the 6,700 seeking it in France, and the 7,000 looking at the U.K. 'The Syria problem is not only a problem of Syrians, it is a problem of the whole world', said Huseyin Oruc, vice president of the Turkey-based Human Development Foundation, an agency that has extensive and diverse experience in providing humanitarian relief to refugees. It is a reasonable expectation from the global counterparts that Russia should be or may be able to do more.

The Under-developed Chinese System

⁷⁶ 'You can't let refugees do nothing': Russia's immigration tsar on EU migrant policies, published 9 March 2016 on Reuters. Accessed on 17.5.2016 from <https://www.rt.com/politics/official-word/334949-romodanovsky-migration-europe-ukraine/>



Compare to the well-organized US system and the advancing Russia system, China's refuge regime is relatively less developed. As discussed in the previous parts, Chinese government's decision-making process relating to the status of relevant displaced foreigners lacks transparency and predictability.

China does not take the responsibility for registration and asylum processing.⁷⁷

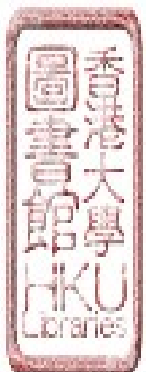
Despite the Exit-Entry Administration Law (with the Article 46 regarding refugee/asylum-seeker's documentation) was adopted on 30 June 2012 and came into force on 1 July 2013 and the Implementation Regulations of the above Exit-Entry Administration Law came into force on 1 September 2013 which advocates Chinese authorities assume of full responsibility for registration refugee status determination and durable solutions in line with international standards, there are no implementation regulations regarding the above Article 46. The government of China does not provide assistance to refugees. The UNHCR office in Beijing has a direct assistance program that covers essential needs of the entire refugee population and exceptionally vulnerable asylum seekers in the sectors of food shelter, health, education, and social services.⁷⁸

The Chinese government claims to have maintained a cooperative relation with UNHCR and made contributions every year since 1990.⁷⁹ However, UNHCR is

⁷⁷ "2015 UNHCR subregional operations profile – East Asia and the Pacific", accessed on 17.5.2016 from <http://www.unhcr.org/where-we-work.html>

⁷⁸Ibid.

⁷⁹ Song, Lili. *The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status*, A thesis submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington. Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705>



sometimes criticized for not confronting the Chinese government about greater protection of the refugees in China.

While the Convention Refugee Definition recognizes race, nationality, religion, political opinion and membership of social groups as grounds for a refugee's fear of persecution, Art 32(2) of the 1982 Constitution of China limits the ground for requesting asylum in China to "political reasons", which is neither a legal term in China nor defined in the Chinese legal context.⁸⁰

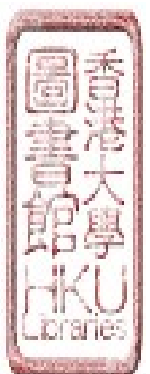
After the Indochinese refugees, the Chinese government did not identify any refugees or publicly grant asylum to any person. There is no published record that Chinese authorities have screened any asylum seeker according to Chinese domestic law.

China has not enacted any national law to implement the Convention and Protocol, except for Art46 and its Constitution is silent on the legal status of treaties and their hierarchy in the domestic legal system. Since China has not enacted any legislation to incorporate the provisions of the Convention and Protocol into Chinese law, the Convention do not apply domestically in China, which means that refugees will not be able to bring a case to a Chinese court to enforce the provisions of the Convention and Protocol.

Moreover, the Convention and Protocol lack a strong monitoring mechanism and the

p.121

⁸⁰ Song, Lili. *The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status*, A thesis submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington. Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705> p.73



institution charged with the task to supervise their implementation, UNHCR, unlike treaty supervisory bodies formed under a few human right treaties, does not have the function of reviewing state reports or determining individual or inter-state complaints. It is thus very much within a state party's sovereignty discretion as to whether and how to take steps to protect refugees within its jurisdiction.⁸¹

China should establish a national RSD mechanism as soon as possible. Before the Chinese national RSD mechanism is established, asylum seekers should have unrestricted access to UNHCR's RSD service.⁸²

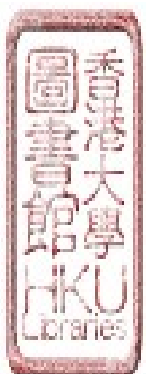
China Should Do More

The population of refugees and persons in concern in China (301612 as in 2015) is much higher than Russia (95412 as in 2015) and not much lower than the US (491730 as in 2015). However, in terms of financial contributions, China ranked 29 which is behind Russia (Rank 18) whose economic situation is not as prosperous as China, not to mention the number one contributor, the US.

As discussed earlier, there is a need for a more organized and open regime for refugee issue in China. Procedures and rules tally with the international standards are need with an aim of providing more humanitarian protection for refugees. As we can see from the examples of the US and Russia, more proactive roes and more commitment form the governments did not necessarily harm the national interests. On the other

⁸¹ Song, Lili. *The Door Behind the Bamboo Curtain – Chinese Law and Policy on Refugee Status*, A thesis submitted to the Victoria University of Wellington. (New Zealand, 2014) Victoria University of Wellington. Accessed from <http://researcharchive.vuw.ac.nz/handle/10063/3705> p.82

⁸² Ibid. pp.62-64

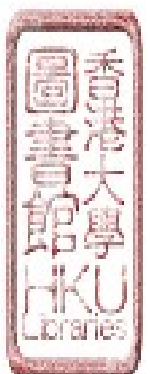


hand, it helps in gaining international acclamation and will be beneficial to China's rise as one of the world leaders.

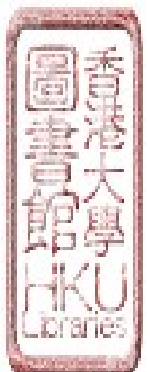
Chinese government should commit more to the global refugee problem by setting up a more regulated legal framework and adopting a more positive attitude towards refugees as well as China's responsibility as a world power in protecting their genius needs. Yet, such commitment shall not be in expense of China's own social and national security as well as economic development. A balance has to be maintained when making decision on policy which would bring both domestic and international consequences.

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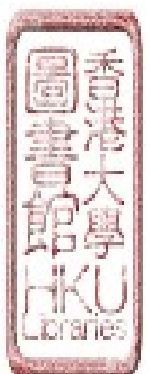


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Part III by BAUMAN Peter Isaac

Table of Contents

Summary..... 42

Introduction..... 43

Authority, Legitimacy and Hegemony 46

China and Hegemony 48

China’s Foreign and Refugee Policy 51

Overview of China’s Major Refugee Decisions..... 54

Vietnam 54

 Background..... 55

 China’s Response 55

DPRK..... 56

 Background..... 57

 China’s Response 58

Myanmar..... 59

 Background..... 59

 China’s Response 60

Analysis 62

How China Can Benefit by Accepting a Greater Refugee Role 66

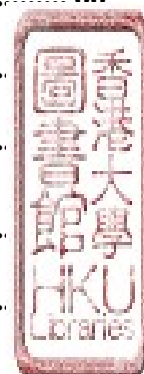
Political..... 66

Economic.....

Security.....

Why China Is Reluctant to Accept Larger Refugee Role

Do China’s Refugee Policies Really Tarnish its Legitimacy?



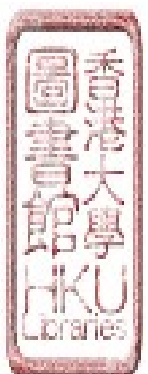
Conclusion 78
Works Cited..... 80

Summary

This paper will attempt to answer the following three questions: (1.) Should China do more to solve regional and international refugee crises? (2.) If so, how will this affect its foreign policy going forward? (3.) Is it in China’s best interests to increase its capacity and capabilities regarding its acceptance of refugees?

The answer to the first question is, yes, China should do more and its current response is not commensurate with its economic power. This asymmetry between China’s economic power and its role in solving regional refugee crises only serves to inhibit China’s goal of regional hegemony as it currently lacks the legitimacy for such a position, legitimacy that would be enhanced if its refugee policies were more in line with international norms and laws. For China to increase its regional role and become a regional hegemon, it must craft a set of values (an identity) that other powers in the region find reassuring so they are willing to accept its authority and leadership. It can craft this set of values by taking on more of the burden in protecting the regional common good by increasing its role as a refugee taker and by abiding by previously established international law on refugees.

As for the second question, China has had inconsistent policies regarding refugees. Its response to incoming refugees has varied drastically between the Democratic People’s Republic of Korea (DPRK), Vietnam and Myanmar due its domestic concerns. China should have a consistent refugee policy that is less focused on domestic stability and more on its regional role and interests. This paper will argue



that taking on more of a refugee burden will lead to improved foreign relations thus improving China's foreign policy manoeuvrability.

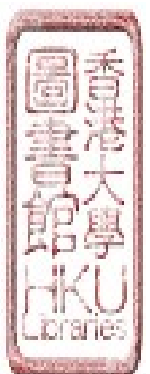
Finally, in answering the third question, this paper will argue that it is in fact in China's best interests to take on a larger role in the international and regional refugee regime.

It is in China's interests for material factors like how migrants could improve China's aging demographic problem and the effect this could have on the economy. Additionally, better refugee policies would in this author's opinion serve China's non-material interests better. For instance, its legitimacy would be enhanced in the region as a result of taking more of a leadership role, especially considering the West's failures to address the issue. Both these factors would contribute then to China achieving its goal of regional hegemony.

Introduction

Since 2008, China's approach to regional affairs has been increasingly heavy handed. This assertiveness has become even more pronounced since its fifth generation of leaders assumed power in 2012 with President Xi Jinping at its head. Since then, Xi has tightened both the Chinese Communist Party's (CCP) grip on power as well as his own control over the CCP, as he has become the most powerful Chinese ruler since Mao Zedong. He has accomplished this remarkable feat through his anti-corruption purge, a reinvigorated crackdown of dissidents, the reshaping of the PLA and his strengthening of control over the media.⁸³ These domestic efforts to consolidate

⁸³ Chairman of everything. (2016, April 02). Retrieved April, 2016, from <http://www.economist.com/news/china/21695923-his-exercise-power-home-xi-jinping-often-ruthless-there-are-limits-his>

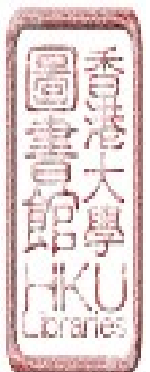


power indicate Xi's and the rest of the CCP leadership's acute fear of domestic instability. The root of this fear is existential for the CCP, as its top priority is to ensure that it and it alone maintains a monopoly on power. This insecurity does not only affect the CCP's domestic decision making, however. China's foreign policy is also heavily influenced (and in some cases impeded as this author will argue) by ensuring domestic stability; China does this both by factoring in the domestic effects of its foreign policy decisions and by increasingly assuaging nationalist voices calling for more robust policies abroad. These nationalist voices and a more assertive Xi abroad combined with the aforementioned tightening of domestic control have led to what one Chinese scholar has dubbed "Beijing's confident insecurity."⁸⁴ This means that on one hand China displays political insecurity at home and on the other hand exhibits a confident and assertive posture on the international stage.

This mix has not only led to a more assertive foreign policy but also means that "Beijing has become less likely to join the international community in tackling global problems."⁸⁵ Addressing global problems, like refugee issues, is complicated because if Beijing takes a more lenient stance on incoming refugees from the DPRK, for example, then nationalist elements at home portray this as weakness and accommodation to the West. How representative these nationalist voices are, though, remains in question. Evidence suggest and this author will argue that a majority of Chinese people would in fact welcome additional refugees and that Beijing's nationalist fear in this regard, as in several others, is misplaced.

⁸⁴ Christensen, T. J. (2011, March/April). The Advantages of an Assertive China: Responding to Beijing's Abrasive Diplomacy. Retrieved April, 2016, from <http://www.brookings.edu/research/articles/2011/03/china-christensen>

⁸⁵ Ibid

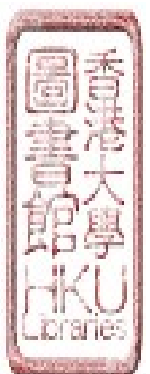


Beijing's abundant concern for parochial interests, however, means that at times its ability to pursue its own national interests is impeded. Examples abound, including China's often counter-productive South China Sea strategy and its poor relations with India due to Tibet, but one other crucial area in which China is placing its national interests behind its domestic concerns is its policies regarding refugees.

As this paper will argue, refugee policies from China that are more consistent with international law and norms would fall in line with its long term national interests more so than the often short-sighted policies that it currently employs. Taking a more proactive role regarding refugees would not only afford China diplomatic prestige, much like its more proactive role in the six-party talks did, but it would also be a step towards making China the undeniable leader of the Asia-Pacific. Regional hegemony, while not publically regarded as a goal by Chinese leaders, as this paper will argue, remains the natural and obvious long term destination for what will be the most powerful economy in the world.

Economic power alone, however, is not enough to produce hegemony; rather, China must be seen as legitimate in the region for others to accept its authority. Sharing more of the burden regarding refugees would be a positive contribution to their perceived legitimacy. The rest of this paper will make the case for these claims.

Section 2 of this paper reviews the literature on authority and legitimacy in international systems, arguing that there is a theoretical basis for the view that authority is a fundamental factor in international relations as important as power or wealth. Section 3 then makes the argument that it is indeed China's intention to



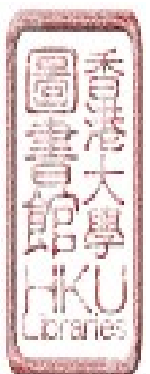
become the regional hegemon of the Asia-Pacific. Section 4 takes a closer look at what China's foreign policy goals are so that later it can be seen how improved refugee policies will be consistent with these goals. Section 5 then analyses the background and decision making process of the three biggest cases of incoming refugees into China in order to argue that its contemporary policies are lacking as well as offering an indication from historical experience as to what more can be done by assessing Beijing's intentions and motivations. Section 6 looks at the benefits and drawbacks of China taking on a bigger burden regarding refugees. Section 7 shows the relationship between China's refugee policies and its international image. Finally, the paper concludes with a look ahead by examining what a continuation of China's current policies would mean for its future as well as the region's and the globe's.

Authority, Legitimacy and Hegemony

International anarchy seems to imply a Hobbesian state of nature where all states relate to one another on an equal basis, an idea supported by the Westphalian system of states dominant today. This assumption, however, is not entirely accurate, as according to David Lake "we see that relations between states are not purely anarchic but better described as a rich variety of hierarchies in which dominant states legitimately rule over greater or lesser domains of policy in subordinate states."⁸⁶ Two prominent questions that may be asked upon this description of international relations are: What makes a state dominant and what makes its rule legitimate? In other words, what is the relationship between authority and legitimacy?

According to David C. Kang, "authority and legitimacy are two sides of an inherently

⁸⁶ Lake, D. A. (2009). Relational Authority and Legitimacy in International Relations. *American Behavioral Scientist*, 53(3), 331-353. p. 332



social relationship.”⁸⁷ On one side, authority can be understood as “rightful rule” and legitimacy on the other side as leadership that “ought to be obeyed.”⁸⁸ In this sense, legitimacy can be seen as “the bridge between compulsion and choice.”⁸⁹ When a leader’s authority is legitimate, then its followers accept its rule by choice and no physical or material coercion is required. Hegemony is a specific kind of authority, which “arises from the acceptance some states have of the leadership and hence greater responsibility, influence, and role of another political unit.”⁹⁰ The notion of “acceptance” or choice here is crucial as it distinguishes hegemony from primacy based solely on a state’s material power.

Crucial to the central argument of this paper is the question of how then do states decide to accept authority. While material incentives are one factor in determining compliance with authority, John Ikenberry and Charles Kupchan argue that “the exercise of power—and hence the mechanism through which compliance is achieved—involves the projection by the hegemon of a set of norms and their embrace by leaders in other nations.”⁹¹ Thus, creating a set of norms and rules that other states view as legitimate is crucial for a would-be hegemon, as hegemonic power does “not merely [come] from the state’s military might and economic wealth.”⁹² Authority, therefore, is distinct from material power despite there clearly

⁸⁷ Kang, D. C. (2012). Authority and Legitimacy in International Relations: Evidence from Korean and Japanese Relations in Pre-Modern East Asia. *The Chinese Journal of International Politics*, 5(1), 55-71. p. 57

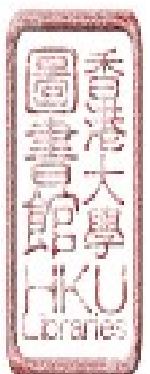
⁸⁸ Hurd, I. (1999). Legitimacy and Authority in International Politics. *International Organization*, 53(2), 379-408. p. 390

⁸⁹ Lake. p. 333

⁹⁰ Kang. p. 57-58

⁹¹ Ikenberry, G. J., & Kupchan, C. A. (1990). Socialization and hegemonic power. *International Organization Int. Org.*, 44(03), 283. p. 283

⁹² Kang. p. 59



being some complex relationship between authority, power and legitimacy. This is why, according to Kang, “authority grows out of the social purpose a state projects and only exists if seen as legitimate in the eyes of others.”⁹³ This paper contends that China’s policies on refugees are part of its projected social purpose and that its authority, therefore, in some part stems from it abiding by sets of norms that others view as legitimate, norms such as abiding by international law on refugees. The next section will now examine whether it is indeed China’s intention to become the regional hegemon of the Asia-Pacific in the first place.

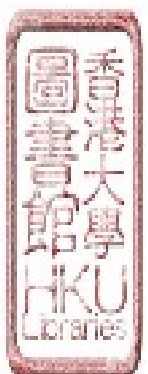
China and Hegemony

When experts speak of the decline of U.S. power in Asia, it is portrayed as a distant possibility contingent on various economic and political factors. Before the beginning of 2016 not many people, experts or otherwise, thought that American ambivalence in Asia might be swinging towards an abandonment of a century of U.S. foreign policy, policies which include preventing a regional hegemon and the robust stationing of military personnel in the region. Between Donald Trump’s threats to remove the U.S. nuclear umbrella over Japan and South Korea, his insistence that these two countries share more of the financial burden of U.S. troop deployment, Hillary Clinton withdrawing support from TPP and a general feeling in Washington that its allies around the world are freeriding, the United States appears to be turning inward.⁹⁴ While this is a nightmare scenario for a country like Japan which relies on the United States not only for defence but also as a balance against China, this should be seen as a welcome opportunity from China’s perspective to exert greater influence

⁹³ Ibid. p. 59

⁹⁴ Sanger, D. E., & Yardley, J. (2016, May 05). In Donald Trump’s Rise, Allies See New American Approach.

Retrieved May, 2016, from <http://www.nytimes.com/2016/05/06/world/europe/donald-trump-foreign-policy.html>



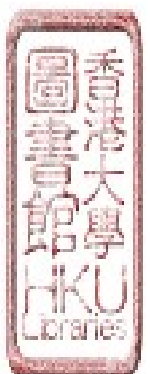
in its own backyard.

This paper will now briefly look at the theoretical as well as historical evidence for China becoming the next regional hegemon. Founded on a combination of offensive neorealist and constructivist theory, this paper argues that there is a historical precedent for rising powers to expand their interests as their material power increases. Fareed Zakaria, dubbing his theory state-centered realism and basing his claims on historical evidence, holds that a state's decision-makers will expand their interests abroad as they perceive increases in state power. More specifically, he says that "over the course of history, states that have experienced significant growth in their material resources have relatively soon *redefined* and *expanded* [emphasis added] their political interests abroad."⁹⁵ Combining this theory about the consistent behaviour of rising (economic) powers with the constructivist approach's emphasis on history, culture, norms and identity shaping the behaviour of states in addition to material concerns, one can form a synthesis of the two. This synthesis appears to be that culture, identity and history shape how, when (in terms of precise timing) and to what extent a rising power expands but not *if* it will expand.⁹⁶

Based on this theoretical framework and China's own security and domestic interests, it seems clear that it is in China's best interests to become the hegemon of the Asia-Pacific. To clarify, the argument is not that China will *necessarily* become the hegemon; rather, this writer believes that it is simply a goal China should pursue and

⁹⁵ Zakaria, F. (1998). *From wealth to power: The unusual origins of America's world role*. Princeton, NJ: Princeton University Press. p. 3

⁹⁶ Bauman, P. I. (2016). *The evolving landscape of China's strategic thinking: What lessons can be learned comparing today's rising China and yesterday's rising United States?* (Unpublished masters paper). The University of Hong Kong.



most likely will be based on the historic behaviour of states and the additional influence and security that would result. Beijing seems to be fully aware of this, as indicated by statements from Xi claiming “Asians have the capacity to manage security by themselves,”⁹⁷ implying China’s desire to see the U.S. security apparatus in Asia dismantled. The apparent U.S. retreat inwards only serves to make this task of self-sufficient security more likely and necessary. Much of the literature on China’s hegemony in Asia focuses on how militarily Beijing could oust the U.S. from the region and the likelihood of success of this approach.⁹⁸ With the U.S. seemingly already prepared to concede influence in the region, “Mr. Trump’s assertion that American troops in South Korea and Japan should be sent back to the United States is in alignment with official, though rarely stated, Chinese goals.”⁹⁹ With America’s allies essentially abandoned, China would no longer face a credible threat to its power in the region and would thus find it less costly to pursue its foreign policy objectives. For instance, John Mearsheimer comments that “gaining regional hegemony...is probably the only way that China will get Taiwan back.”¹⁰⁰ Mearsheimer goes on to ask, “Is Beijing more principled than Washington? More ethical? Less nationalistic? Less concerned about survival? China is none of these things, of course, which is why it is likely to imitate the United States[’s Monroe Doctrine] and attempt to become a regional hegemon.”¹⁰¹

⁹⁷ Heath, T. R., & Lin, B. (2015). *The Chinese Dream: Strategic and Policy Priorities of the People’s Republic*.

Retrieved April, 2016, from

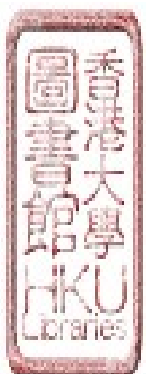
http://www.rand.org/content/dam/rand/pubs/corporate_pubs/CP700/CP797/RAND_CP797.pdf

⁹⁸ Godwin, P. (2004). *The Asia-Pacific: A region in transition*. Honolulu: Asia-Pacific Center for Security Studies. p. 81

⁹⁹ Sanger.

¹⁰⁰ Mearsheimer, J. J. (2006). China's Unpeaceful Rise. *Current History*, (April), 160-162. p. 162

¹⁰¹ *Ibid.* p. 162



China's Foreign and Refugee Policy

This section will analyse the international and regional goals of China's foreign policy. For each major policy or strategic vision it will then explain how a more robust role for China in the refugee regime would help to achieve that goal.

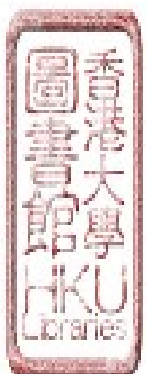
To understand if it is in China's best interests to do more regarding incoming refugees, we must first look at what China's articulated foreign policy goals are for shaping both the regional and global orders, as well as defending its core interests. Internationally, it's stated goal is the promotion of a vision of a "Harmonious World" to guide foreign policy toward shaping a world order amenable to China's rise."¹⁰² This vision is not hostile to the current world order and should not be seen as a radical departure as it "upholds the authority of the United Nations and the basic structure of the existing economic and political order."¹⁰³ It does, however, wish to make reforms and adjust existing institutions to better serve its needs. More importantly for this paper is the more assertive role in international affairs that this vision explicitly confirms, as "a more proactive role is now necessary if the country is to shape its own destiny."¹⁰⁴ Further, Xi has stated that China's "great national renewal" would benefit the world and that "as its strength increases, it will assume more international responsibilities" and contribute to "world peace and development". Here, we see that more robust refugees policies are consistent with these goals. As this paper will discuss in more detail, one way China can be more proactive and assume more international responsibilities is to take on more of a leadership role

¹⁰² Heath.

¹⁰³ Ibid..

¹⁰⁴ Zheng, Y. (2007). 'Harmonious Society' and 'Harmonious World': China's Policy Discourse Under Hu Jintao. *China Policy Institute*, (26). Retrieved from

<https://nottingham.ac.uk/cpi/documents/briefings/briefing-26-harmonious-society-and-harmonious-world.pdf>.

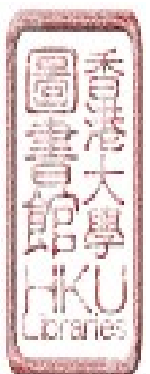


regarding regional and international refugee crises.

China's second goal is the promotion of the "Five Principles of Peaceful Coexistence" which has been a salient cornerstone of Chinese foreign policy for over 60 years yet may not be a suitable panacea any longer. While enhancing its refugee policy may appear to contradict the non-interference principle, at least according to Beijing, legally this is not the case. According to international law, asylum seekers, once having attained this status, are no longer subject to the laws of their home country.¹⁰⁵ Thus, China would not be interfering in the internal affairs of another country. Further, China is not adhering to international law by not allowing migrants crossing its borders to seek asylum status.¹⁰⁶ Additionally, China has on numerous occasions broken the non-interference rule when it has benefited national interests. For instance, China has no non-interference qualms about pressuring Nepal not to take China's own Tibetan refugees or interfering in other areas of the globe where it has significant interests like Africa. These examples demonstrate the weakness or incompleteness of the Five Principles and in particular non-interference, which may no longer be a suitable strategy for a country of China's material power. Further, appropriately resolving refugee issues is directly related to regional stability and thus peaceful coexistence. Conflicts and disorder are only exacerbated by improper refugee handling as the current situation in Europe is proving. This paper argues that China would be better served by a more strict adherence to non-refoulement than non-interference.

¹⁰⁵ Asylum & the Rights of Refugees. (2012). Retrieved from <http://www.ijrcenter.org/refugee-law/>

¹⁰⁶ Study Guide - The Rights of Refugees. (2003). Retrieved from <http://www1.umn.edu/humanrts/edumat/studyguides/refugees.htm>

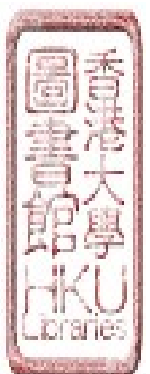


China's final goal internationally is to establish a new major power relationship with the United States that is "defined by greater equality, cooperation on shared concerns, and U.S. accommodation of PRC core interests."¹⁰⁷ Here, once again, this goal is easily consistent with taking a larger role regarding refugees, as the U.S. has encouraged China for decades to share more of the burden in regards to global issues. If China truly wants a better relationship with the United States, then what better way to solidify this relationship than by working together to solve a crisis of "shared concern" and enhance the cooperation between the states, all goals of China.

In addition to these international concerns, China has regional goals as well that would be enhanced if it took on a larger role regarding refugees. Its ultimate goal for the region is to create a "community of common destiny", highlighting Xi's renewed focus on the region, as "relations with the Asia-Pacific region have increasingly become a strategic foreign policy priority."¹⁰⁸ One way that Beijing could build trust in the region and display its ability to lead would be to become a leader in regards to refugees. The focus of the "community of common destiny" is undeniably on economic integration and growth with such initiatives as "One Belt, One Road (OBOR), the Asia Infrastructure and Investment Bank (AIIB) and various free trade agreements. This vision, however, largely ignores yet is consistent with the thesis of this paper that China additionally needs to focus on creating a set of norms and rules that the region sees as legitimate. Regional initiatives like OBOR and AIIB could certainly enhance China's material power in the region and are also clearly an example of China's expanding interests and thus attempts to construct more of a leadership role for itself. This, however, as discussed earlier in this paper, is not

¹⁰⁷ Heath

¹⁰⁸ Heath



by itself sufficient to give China anything other than economic supremacy in region; for it to truly lead with authority and legitimacy, China must contribute more to the regional common good. Establishing a more robust refugee regime that could be seen a model in the region and in the world, the details of which will be discussed in greater detail in another paper in this larger report, would be a positive step in this direction.

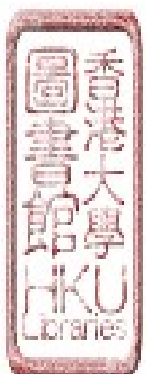
Overview of China’s Major Refugee Decisions

The following section will look at the successes and failures regarding how China has responded to incoming refugee influxes in the last four decades with the aim of discovering the intentions and motivations for the decisions in an effort to determine if more should have been done. This section will look at the Vietnamese refugee crisis of the late 1970s and early 1980s, the issue of North Korean escapees into China since the mid 1990s, and the crisis of displaced Kokangs and Kachins from Myanmar in the late 2000s.

Vietnam

The case of Vietnam refugees flooding into China in the late 1970s and again in the early 1980s stands not only in stark contrast to the two other examples of migration into China but is also universally acclaimed as “perhaps the most successful mass resettlement in history.”¹⁰⁹ While China does not nor should it receive all the credit for this success as it was truly a global effort, it still played a crucial international role in sharing the burden of this refugee crisis.

¹⁰⁹ Bring me your huddled masses. (2016, May 28). Retrieved May, 2016, from <http://www.economist.com/news/special-report/21699308-it-worked-indochinese-why-not-syrians-bring-me-your-huddled-masses>



Background

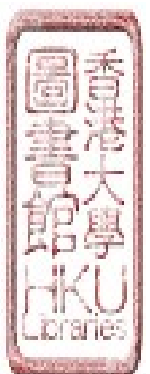
Ethnic Chinese in south China started emigrating to Vietnam in the tens of thousands during the turmoil and chaos of post-Opium War China in the nineteenth and twentieth centuries. These people were known as Hoa and fled to Vietnam due to labour shortages there combined with chaos at home. Decades later, however, “As the Sino-Vietnamese relationship turned sour after Ho Chi Minh's demise in 1969, measures were taken by the Vietnamese authorities to exclude Chinese from mainstream social life.”¹¹⁰ In addition to these exclusionary measures, many Hoa had their property and private businesses confiscated in the newly captured South. These deliberate practices in 1975 led to the first of two exoduses of Hoa people to China. The worst was yet to come, however, as in 1978 due to the “deteriorating relations between Vietnam and China,”¹¹¹ Vietnam forced its remaining Hoa population to flee the country due to supposed threats to national security.

China's Response

How China responded to this influx of refugees by successfully integrating and resettling the refugees is viewed today as one of the most successful models of the twentieth century. In total, 270,000 incoming refugees were relocated to often specially constructed villages in Guangxi and Guangdong provinces. To give an indication of the effort involved in this kind of operation, civilian transporters made 10,000 lorry trips while the PLA completed 1,232 trips in a coordinated effort to

¹¹⁰ Lam, T. (2000). The Exodus of Hoa Refugees from Vietnam and their Settlement in Guangxi: China's Refugee Settlement Strategies. *Journal of Refugee Studies*, 13(4), 374-390. p. 377

¹¹¹ Ibid. p. 377



resettle the refugees.¹¹² Much more than simply relocating the refugees, Chinese authorities also provided work as farmers, fishermen or in other local industries depending on their previous professions in Vietnam. Additionally, the refugees were provided with accommodation in receiving units where they were essentially given the opportunity “to start life anew.”¹¹³

While conditions for the refugees were far from perfect and some of the settled peoples found their new lives too harsh, China’s coordinated response and its natural advantages make for a model upon which could be based future successful integration schemes. Further, “if lessons are to be learned from China in its handling of the arrivals from Vietnam, [they are] the direct involvement of the government and the adoption of a long term and consistent approach.”¹¹⁴ These are lessons that perhaps the current CCP leadership can learn from itself, as this remarkably adroit handling of the Vietnamese refugee situation only serves to highlight the crucial role that proactive policy can play in not only ameliorating pain and suffering but in solving an issue that otherwise could have spiralled out of control and hence led to an even larger security or humanitarian disaster.

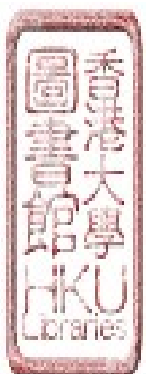
DPRK

In stark contrast to China’s handling of the Vietnam refugee crisis are its current policies regarding incoming migrants fleeing the Democratic People’s Republic of Korea (DPRK) since the mid 1990s. China, despite international pressure, does not even acknowledge that the migrants are refugees and instead refers to them as “illegal

¹¹² Ibid. p. 378

¹¹³ Ibid. p. 378

¹¹⁴ Ibid. p. 378



economic migrants,” while not providing shelter or assistance of any kind.”¹¹⁵ In Beijing’s response to this situation, we can see a delicate geopolitical game being played not only with Pyongyang but with the entire international community where intentions and interests can be at odds.

Background

First, it is important to note that the DPRK does not permit its own citizens the freedom to exit the country, as it “does not uphold Article 12(2) of the [International Covenant on Civil and Political Rights], which states, ‘Everyone shall be free to leave any country, including his own.’”¹¹⁶ This restriction is one way for Beijing to justify a policy of non-interference and refoulement when North Koreans flee their own state.

China started receiving these large numbers of refugee flows from the DPRK during the mid 1990s when floods, drought and famine killed between 600,000 and one million North Koreans.¹¹⁷ This largely man-made famine would last for over a decade and the crisis was exacerbated in the early 2000s when “the government’s economic reforms led to large-scale layoffs in factories, pay cuts, and inflation, prompting more people to flee.”¹¹⁸ Compounding the problem is the fact that the border between the DPRK and China is highly militarized as a result of the restriction

¹¹⁵ Almost home. (2015, October 8). Retrieved from

<http://www.economist.com/news/china/21672335-china-has-successfully-absorbed-many-refugees-vietnam-it-ill-prepared-another>

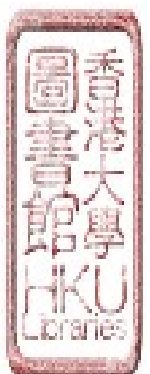
¹¹⁶ Tanaka, H. (2008, January 07). North Korea: Understanding Migration to and from a Closed Country.

Retrieved 2016, from

<http://www.migrationpolicy.org/article/north-korea-understanding-migration-and-closed-country>

¹¹⁷ Ibid

¹¹⁸ Ibid



mentioned above. This makes it practically impossible to make it across the border alone, which in turn leads to rampant smuggling and bribery. Due to the secrecy and sensitivity of the issue, it is difficult to determine how many North Koreans have successfully fled to China, usually in transit to South Korea, but the numbers range from 30,000 to 300,000.¹¹⁹

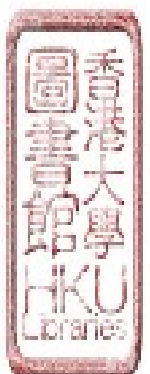
China's Response

As mentioned earlier, despite rather clear international law on the issue, China does not consider North Korean defectors to be refugees because Beijing considers their plight to economic in nature only. Human rights advocates and international law experts, however, disagree strongly and consider political reasons to flee just as significant a role as economic. In addition, even if they are simply economic migrants, China would still be bound by the 1951 UN Convention Relating to the Status of Refugees, which expressly forbids refoulement if a person's life or freedom is threatened. According to Amnesty International, all forcibly repatriated North Koreans from China are detained, most are tortured and some are executed;¹²⁰ therefore, any Chinese policies of refoulement would be illegal under the 1951 convention of which Beijing is a signatory.

Far from providing any services or resources which Chinese authorities so expertly extended to Vietnamese refugees, North Koreans in China receive no assistance whatsoever. Living in “constant fear” in “appalling conditions” and “vulnerable to

¹¹⁹ Robinson, C. (2010, November 04). North Korea: Migration Patterns and Prospects. Retrieved from <http://nautilus.org/napsnet/napsnet-special-reports/north-korea-migration-patterns-and-prospects/>

¹²⁰ Kumar, T. (2012, March 05). China's Repatriation of North Korean Refugees. Retrieved from <http://www.amnestyusa.org/news/news-item/china-s-repatriation-of-north-korean-refugees>



physical, emotional and sexual exploitation,”¹²¹ North Koreans in China are in an extremely precarious situation. Further, Beijing has forcibly repatriated tens of thousands of North Koreans since at least 1982, even providing rewards to those willing to turn in defectors, as well as fines for those harbouring them. Finally, while Beijing does allow refugees in general to seek assistance from the UNHCR, it does not grant this internationally recognized right to North Koreans.¹²²

Myanmar

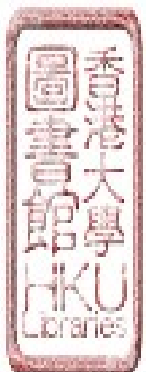
China’s response to Vietnamese and North Korean refugees represent two ends of a spectrum, ranging from internationally laudable accommodation to absolutely no accommodation whatsoever and broad condemnation. Its response to the most recent refugee crisis with Myanmar, then, is somewhere in between yet closer to the North Korean end.

Background

Two incidents since 2011 have sent tens of thousands of refugees from Myanmar into bordering Chinese provinces where it is estimated that around 60,000 remain in Yunnan alone. Fighting between the authorities and minority groups in Myanmar has been going on for decades but the first incident that this paper will discuss came in June 2011 when fighting erupted in the northern province of Kachin. The Myanmar Army began attacking Kachin villages and property controlled by the Kachin Independence Army (KIA) in Kachin State where China is building a controversial dam. This fighting led to the displacement of 75,000 Kachin civilians who were forced to flee to safety to avoid torture, rape, mines and forced conscription

¹²¹ Ibid

¹²² Tanaka



including of children.¹²³ Many of those displaced made their way to the Chinese border in order to avoid not only the conflict but serious rights abuses.

In February 2015 the border situation between Myanmar and China became even more complicated as further conflict broke out between the Myanmar Army and an armed rebel group in the Kokang Self-Administered Zone. After nine months of Martial Law, fighting resumed in October leading to the displacement of roughly 6,000 people.¹²⁴

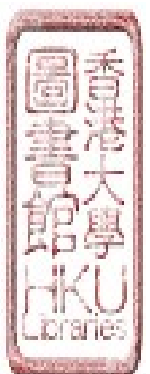
China's Response

Similar to its handling of North Korean refugees, the consensus view of the international refugee regime is that China's response to the Myanmar refugee influx has been inadequate. First, Chinese authorities are again denying that the displaced people are refugees, claiming that they are simply "border inhabitants."¹²⁵ China also declined in both 2011 and 2015 assistance from the UNHCR on account of its non-interference policy. Here we see another creative way that Beijing plays the non-interference card in order to deny textbook refugees their rights. Further, in both cases, China asserted prematurely and without basis that the conflict had subsided in an effort to speed up its refoulement of any displaced persons in China. This forcible return of at least 4,000 refugees who had their border huts destroyed by

¹²³ China: Stop Expelling Refugees. (2012, September 06). Retrieved from <https://www.hrw.org/news/2012/09/06/china-stop-expelling-refugees>

¹²⁴ Myanmar 2015/2016 Annual Report. (n.d.). Retrieved from <https://www.amnesty.org/en/countries/asia-and-the-pacific/myanmar/report-myanmar/>

¹²⁵ Wong, E. (2012, August 25). Chinese Deny Forcing Refugees to Myanmar. Retrieved from <http://www.nytimes.com/2012/08/26/world/asia/chinese-deny-forcing-refugees-to-myanmar.html>



Chinese authorities before they could even leave the site¹²⁶ sparked outrage from international human rights agencies and even prompted a scathing letter from Human Rights Watch to the Chinese Ministry of Foreign Affairs. In this effort to rid itself as quickly as possible of the refugees, Chinese authorities put pressure on the Kachin Independence Organization to repatriate the evacuees despite the physical and mental suffering that came about “because they [had] to come back even though they [didn’t] want to.”¹²⁷ One could argue, however, that this is a clear violation of China’s non-interference policy. Here, Beijing is directly interfering in the affairs of the de facto government of the region, possessing its own police and fire departments, education system and immigration department,¹²⁸ by pressuring it to alter its internal affairs and accommodate Chinese concerns. Additionally, China provided inadequate facilities and resources for the incoming people. In 2011, refugees claimed that they “received no humanitarian assistance from the Chinese government” and humanitarian agencies were also restricted from accessing the refugees.¹²⁹ Further reports describe “squalid conditions and harsh treatment by [Chinese] officials.”¹³⁰

In 2015, the response improved somewhat, as the local government “provided free

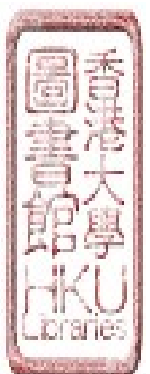
¹²⁶ Weng, L. (2012, August 20). KIO Prepares for Return of Refugees. Retrieved from <http://www.irrawaddy.com/burma/kio-prepares-for-return-of-refugees.html>

¹²⁷ Wong, E. (2012, August 23). China Forces Ethnic Kachin Refugees Back to a Conflict Zone in Myanmar’s North. Retrieved from <http://www.nytimes.com/2012/08/24/world/asia/china-forcing-repatriation-of-ethnic-refugees-from-myanmar.html>

¹²⁸ Htet, Y. (2010, April 19). Ethnic Group Negotiates Merger. Retrieved from <http://www.rfa.org/english/news/myanmar/merger-04192010162846.html>

¹²⁹ Weng

¹³⁰ Wong, E. (2012, August 23).



food, blankets, and running water;”¹³¹ however, these basic facilities were shut after only three weeks and before the fighting had subsided.¹³² More egregiously, evidence suggests that China forcibly repatriated thousands of refugees in addition to pressuring Burmese authorities into accepting their return despite the fact that this would put the returnees at great risk.

Analysis

The section has reviewed the circumstances and responses from China to its three biggest incoming refugee crises of the last 40 years. In each of the three cases, China’s response fluctuated dramatically. Now this paper will analyse what explains these different approaches in order to gain a better understanding of what motivates China’s refugee policies.

In terms of the Vietnamese refugees, China responded and handled the situation in a way consistent with international law and norms. In other words, they acted in accordance with being a “responsible power.” So why did they not act responsibly with refugees from North Korea or Myanmar? Some arguments claim that a simple answer like the level of bilateral relationship between China and the refugees’ country of nationality best explains this difference¹³³ but this author argues that such a view is superficial and overly simplistic.

¹³¹ Perlez, J. (2015, March 21). Myanmar’s Fight With Rebels Creates Refugees and Ill Will With China.

Retrieved from

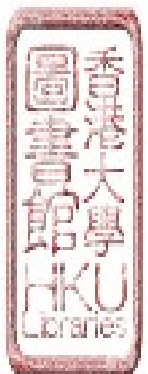
<http://www.nytimes.com/2015/03/22/world/asia/myanmars-fight-with-rebels-creates-refugees-and-ill-will-with-china.html>

¹³² The Han that rock the cradle. (2015, March 14). Retrieved from

<http://www.economist.com/news/asia/21646248-kokang-conflict-causes-problems-china-too-han-rock-cradle>

¹³³ Lam, J. (2013, August 25). China's Refugee Policy in Comparison. Retrieved from

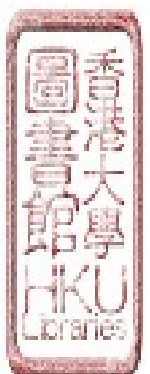
<http://www.e-ir.info/2013/08/25/chinas-refugee-policy-in-comparison/>



China's generous acceptance of Vietnamese refugees must be understood in the proper context. Beijing made a multifaceted calculation with concern for ethnicity of the incoming people, its economy and its legitimacy; above all, however, the most important factor in the matrix for China's refugee decision was how regime and domestic stability would be affected. Closely tied to regime security is border security, which, to say the least, has been of utmost import to China throughout its history; therefore, its calculations regarding whether to accept refugees stem first and foremost from these interrelated security concerns. The CCP did not believe that incoming refugees from Vietnam, who were largely ethnically Chinese, would pose a risk to regime stability. The main reason the authorities did not foresee a domestic security risk in the refugees from Vietnam is because of their ethnicity. China considered the ethnically Chinese Hoa to be "returnees" rather refugees strictly speaking.¹³⁴ In fact, China viewed itself as the ancestral homeland of the Hoa, and in this sense felt obligated to provide for them.

Unfortunately for simplicity's sake, the decision to accommodate the Hoa was not based on simply two factors; economic as well as legitimacy concerns also played a role in addition to ethnicity and security. In terms of economics, the Hoa were a relatively highly educated and skilled group. This valuable source of human capital was appealing to Beijing after the turmoil of the Cultural Revolution had left the economy in tatters. It was hoped that in addition to assisting some of their own, that this would also be a shrewd way to spur China's economic growth and reform. Finally, there were issues of legitimacy at stake for China as well. Not only would

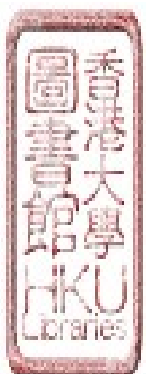
¹³⁴ Ho, E. L. (2012, September 24). 'Refugee' or 'returnee'? The ethnic geopolitics of diasporic resettlement in China and intergenerational change. *Transactions of the Institute of British Geographers*, 38(4), 599-611.



providing assistance enhance China's status and elevate its position in the international community, it would also challenge the legitimacy of the Republic of China in Taiwan. Again the social, political and economic chaos in China following the Cultural Revolution left China's image in shambles and this provided an opportunity for the People's Republic to show the powerful overseas Chinese community that their best interests lied with Beijing and not Taipei.

Having an understanding of why Beijing did provide assistance to the Hoa will provide insight into why refugees from the DPRK and Myanmar were not afforded the same generous treatment. Again, it would be fallacious to claim that only one or two variables caused Beijing to make this decision; rather, there was a matrix of factors. First, there are obvious border security and therefore domestic and regime stability concerns that factored in. Beijing is highly sensitive to stability on the Korean peninsula and regime collapse would be a nightmare scenario, which would likely destabilize the region; this in turn could have a domestic stability impact if Pyongyang's collapse led to a flood of millions of refugees flooding across the border, as opposed to the manageable thousands of today. There are some South Korean experts, however, who say that Beijing's fears in this regard may be overblown. For instance, "food is now more available on private markets, so migrants may not be driven by hunger; and most North Koreans live far from the border." The reality of the situation, according to these experts, is that as the facts on the ground have changed, Beijing's policies have not been adjusted and fear has reigned over common sense.

Further, a collapse in Pyongyang would potentially lead to a united Korea and United States ally on its border, a scenario that is utterly unacceptable to Beijing.



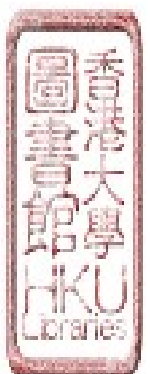
Additionally, these refugees are clearly not ethnically Chinese which does not help to alleviate security concerns as it did with the Hoa. Finally, there is a diplomatic reason for Beijing to refuse to abide by international law and assist the fleeing refugees, as Beijing uses these defectors as a bargaining chip to make Pyongyang more cooperative regarding its nuclear program. In an effort to save face, Pyongyang insists that Beijing repatriate any defectors; by accommodating this request, Beijing hopes to secure better terms from Pyongyang and leverage defectors against them.

Similar to Beijing's calculations regarding North Korean refugees, it has also determined that accepting refugees from Myanmar is not in its best interests. The critical factor again is regime and border security. While the security risks from Myanmar are not as dire as with North Korea and there is less of an ethnically binding link as with Vietnam, it follows that Beijing's response would fall somewhere between the previous two. For Beijing, a complex and multilateral situation makes for an easier calculation than the previous two cases analysed; it simply does not see the political upside to do more than the bare minimum. China can simply shirk its international responsibilities by hiding behind an increasingly empty posture of non-interference. Simply put, "China is reluctant to get involved in efforts to solve humanitarian crises that it believes are not of its own making."¹³⁵ The next section of this paper will analyse whether this is a wise calculation on Beijing's part.

¹³⁵ Tatlow, D. K. (2015, September 9). For China, Migrant Crisis Is Someone Else's Fault, and Responsibility.

Retrieved from

http://sinosphere.blogs.nytimes.com/2015/09/09/for-china-migrant-crisis-is-someone-elses-fault-and-responsibility/?_r=0



How China Can Benefit by Accepting a Greater Refugee Role

After reviewing the circumstances and intentions regarding China's refugee role in order to gain a better understanding of what motivates Chinese refugee policy, this section will now examine the benefits to China if it took on a greater responsibility. This section asserts that it is in China's best interests to have a more consistent and robust refugee policy by examining the political, economic and security dimensions of what greater responsibility would entail.

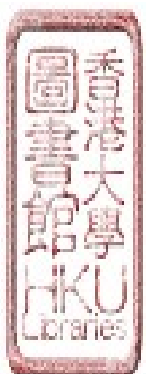
Political

The central argument of this paper is that China's legitimacy would be enhanced with refugee policies that are more consistent with international law. This section will also look at what effect this consideration would have on Chinese foreign policy.

Beijing is extremely sensitive to criticism of its role regarding incoming refugees. In early June 2016, for example, Foreign Minister Wang Yi "appeared angry as he delivered [a] scolding" to a Canadian journalist that questioned China's human rights record, including a reference to refugees from North Korea.¹³⁶ These push backs are not uncommon despite the fact that "within Chinese foreign policy circles there is a recognition that flare-ups over these issues are damaging the country's global image at a time when it is seeking to reassure the world that there is nothing to fear from its 'peaceful development.'"¹³⁷ If China were to contribute more to the global common good by adhering to international law then this would certainly be a step in the right direction. Richard Armitage, a former United States Deputy Secretary of State, also

¹³⁶ Buckley, C. (2016, June 02). China's Foreign Minister Castigates Canadian Reporter for Rights Question. Retrieved from <http://www.nytimes.com/2016/06/03/world/asia/canada-china-wang-yi.html>

¹³⁷ Sceats, S., & Breslin, S. (2012). *China and the international human rights system*. London: Chatham House.



believes that China's authority will not match its economic power if it ignores international law and only makes decisions regarding refugees through a matrix of domestic concerns. He has said for instance that "China will never be great until it stands for something more than itself."¹³⁸ This involves, as David Kang has argued, adhering to or creating a set of values that the rest of the world accepts. One way for China to do this is for it to "build something more conciliatory and appealing to non-Chinese, akin to the U.S. liberal order that has netted the U.S. so many allies around the world."¹³⁹ While China can espouse grand economic integration projects and spout jargon like its vision of a "harmonious world," the fact remains that its policies contradicting international law and trampling on human rights are winning it few friends. A leader with few friends must lead by fear and coercion; for China to lead as a hegemon with legitimacy and respect from others for more than a rapid economic rise, "it will increasingly need to define its position as more than just realpolitik and nationalist glory-seeking."¹⁴⁰ This is why "for all its might, it continues to stand alone" yet must continue to strive for a legitimating structure that lifts "China above just being a grievance-fuelled regional bully."¹⁴¹ This legitimizing structure that this paper recommends in order to prevent this is, if even a small step in the right direction, for China to abide by international refugee law.

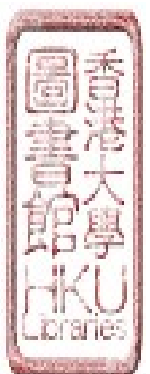
This author is confident that this strategy will work because it has in the past. China's reaction to the Vietnamese refugee crisis demonstrated its ability to shape the

¹³⁸ Nockles, J. (2014, June 2). Allure of normalcy: America's first-order foreign policy issues. Retrieved from <http://www.lowyinterpreter.org/post/2014/06/02/Allure-of-Normalcy-First-order-foreign-policy-issues.aspx>

¹³⁹ Kelly, R. E. (2014, August 7). Can China Legitimate Its Would-Be Hegemony in Asia? Retrieved from <http://thediplomat.com/2014/08/can-china-legitimate-its-would-be-hegemony-in-asia/>

¹⁴⁰ Ibid

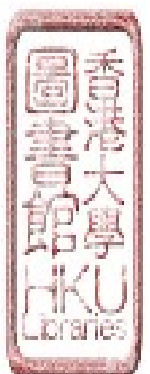
¹⁴¹ Ibid



responsibility of other states in handling refugee crises. Before this, most states viewed their responsibility to refugees as temporary; however, China showed that states could go one step further and provide long term solutions. This prompted the UNHCR in 2007 to highly acclaim China's 30 year arrangement of Hoa accommodation by saying that China had created "one of the most successful models for [the] settlement of refugees."¹⁴²

This model of success is particularly noteworthy and appropriate to examine as the West is currently struggling to handle its own refugee crises. For all of its explicit emphasis on the promotion of human rights, from the U.S. and Australia to the E.U., the West has failed the international refugee regime in its handling of migrants from the Middle East, Africa and elsewhere. As embarrassing and ironic as this is for the West, China should once again see this as an opportunity and seize it. What better way for China to promote itself as the next great global leader than by standing in stark contrast to the West's failures. If China can show the world that it can overcome challenges where there is a "general feeling that the West has not delivered", similar to what it is doing economically in the region with OBOR and AIIB, it will only enhance its legitimacy; thus, it will make it easier to advance its own international and regional agenda. The CCP should take this and every opportunity to show that it and only it has the capacity and vision to solve regional and global powers. This in turn would truly make it indispensable and would do more to protect its existence than making decisions based on largely unfounded, narrow and short term fears.

¹⁴² Ho, E. L. (2012, September 24).



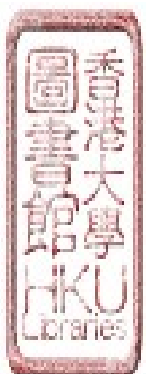
Providing for refugees does not only have humanitarian and legitimizing benefits; improvements in foreign relations that would result are also significant. Just as China's laudable handling of refugees from Vietnam generated praise and demonstrated its leadership, so too have its inadequate responses hurt its image and relations. There are diplomatic costs to not abiding by international law. For instance, accommodating Pyongyang and repatriating North Koreans fleeing into China is another issue that has soured relations between Beijing and Seoul, Tokyo and Washington. In other words, "a truly assertive great power would not allow a small pariah state to hijack its foreign policy in such a fashion."¹⁴³ Doing more for refugees would allow China to take a step forward in improving its relations with the other major powers in its region.

Economic

In addition to these political benefits, there are economic benefits to accepting more refugees as well. Most crucially, China's working-age population is shrinking as it ages; immigrants, however, can help in two ways. First, "they lower the dependency ratio (the proportion of the non-working young and old to people of working age), and [second] they often have more children than the native population."¹⁴⁴ China would, granted, need to add a substantial number of refugees for this to actually have a significant effect, yet this could be part of a bigger long term solution or a regional, more focused one for specific areas where low cost labour is particularly needed. In

¹⁴³ Christensen

¹⁴⁴ Economist Special Report on Migrants. Not so fast: Refugees cannot solve Europe's demographic woes. (2016, May 28). Retrieved from <http://www.economist.com/news/special-report/21699309-refugees-cannot-solve-europes-demographic-woes-not-so-fast>



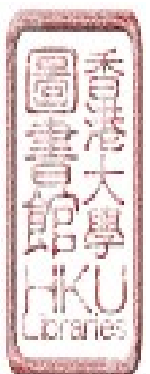
any event, countries like the United States have been able to maintain a healthy age structure by having an open immigration policy; countries like Japan, however, which do not allow immigration are seeing declining populations, stagnation and the long term economic instability that the CCP simply cannot afford if it wishes to retain its monopoly on power.

Security

Finally, there are security benefits for China if it is willing to accept more refugees. Refugee crises arise largely from border tensions. By playing a larger role in mitigating and preparing for the unwanted side effects of these disputes on its border, China can make its border more secure. For instance, China, as mentioned previously, is fearful of a regime collapse in the DPRK, which would potentially create a refugee crisis dwarfing the size of the one from Vietnam. By setting more infrastructure now to accommodate and handle small numbers of refugees, China would be more prepared for a bigger influx, if indeed such a scenario is realized. Currently, “China’s only visible preparations so far have been to tighten security along the border;”¹⁴⁵ however, creating a system and working out problems with it now on a small scale would prevent China from having to face the migrant related chaos that has plagued an unprepared Europe. This would also give China another opportunity to work on shared concerns with potential foes like South Korea and the U.S. By anticipating problems in the future, China can mitigate their destabilizing effects while improving relations with actors of more long term significance.

Why China Is Reluctant to Accept Larger Refugee Role

¹⁴⁵ Almost home. (2015, October 10).



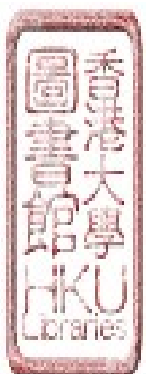
This section will now look at what some of the drawbacks would be if China took on a larger refugee role to determine if it is truly in its best interests to do so. It will examine the political, economic and security concerns that have so far prevented China from accepting a larger role.

The challenges that have so far prevented China from allowing more migrants through its border are myriad and complex; however, “if China is to become a responsible global power, the country must re-evaluate the ideology that has prevented it from taking an active role in ameliorating a global crisis.”¹⁴⁶ The first challenge is political and involves Beijing’s insecurity at home. The issue of domestic stability and therefore regime survival is paramount for China. Every decision the CCP makes concerning just about anything must be understood and viewed through the lens of it maintaining its grip on power. Refugee decisions are no different, as “China worries more about the impact on social stability of a large number of jobless immigrants of different ethnicity from the Han majority.”¹⁴⁷ That is, it worries more about this consideration than the rights of the refugees themselves. Again, this demonstrates an insecure leadership that is unwilling to pursue what is in its long term best interests for short term stability considerations. China will find its goals of playing a larger role in shaping the regional and global order to accommodate its rise will be more difficult to achieve if it does not do realize the relationship between its policies and its legitimacy to rule.

China’s second biggest concern, which is closely tied with domestic stability is

¹⁴⁶ Huang, Y. (2013, March 26). China's Road to Becoming a "Responsible" World Power. Retrieved from <http://carnegieendowment.org/2013/03/26/china-s-road-to-becoming-responsible-world-power>

¹⁴⁷ Almost home. (2015, October 10).

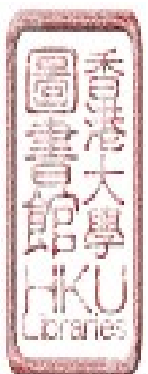


economic. When China appears to take on a larger role internationally, especially in a more philanthropic manner, it faces nationalistic backlash at home. For instance, “During a 2015 UN summit, Chinese President Xi Jinping pledged \$2 billion and announced major debt forgiveness to assist the development in poor countries.”¹⁴⁸ While this was a welcome move internationally and consistent with China’s earlier stated foreign policy goals of taking on a larger international role, it had its domestic critics. Netizens and intellectuals argued that China should not invest so much abroad when there are still so many below the poverty line at home. This is indicative of an interrelated economic and political challenge where Chinese people feel like financial resources should be spent at home to fix the economy instead of going to foreign nationals crossing its borders. As argued before, this perception is not entirely accurate, and there are economic benefits to be had from a more accepting refugee policy.

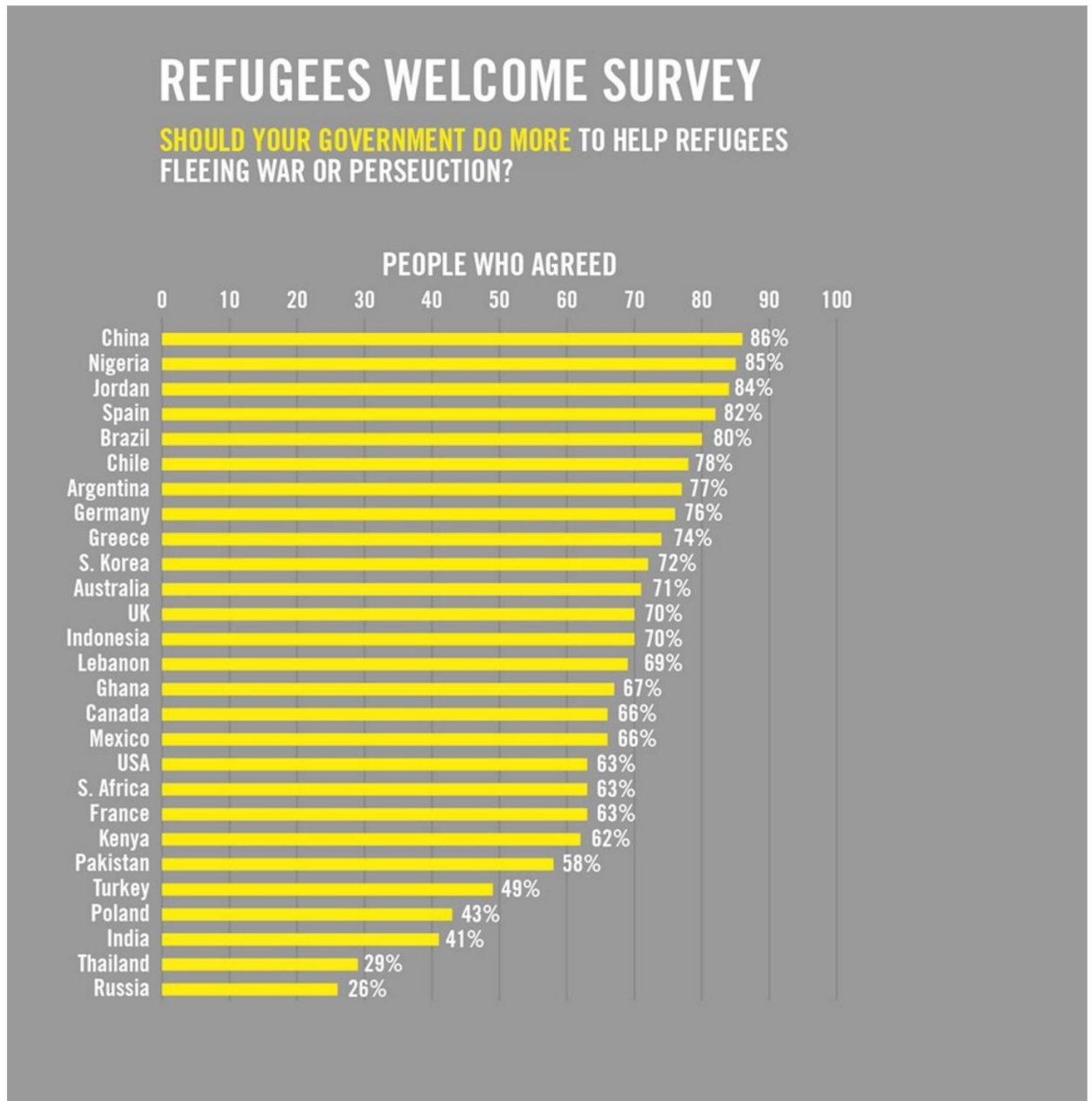
Recent evidence suggests, however, that the loud nationalist voices that would undoubtedly oppose acceptance of more refugees are in fact merely a vocal and angry minority opinion. A May 2016 Amnesty International global poll¹⁴⁹ found that *China ranked number one in the entire world* in terms of people who agreed with the following question: Should your government do more to help refugees fleeing war or persecution? Astonishingly, 86% of Chinese agreed. China also topped the Refugees Welcome Index with 85% saying they would “welcome refugees in [their]

¹⁴⁸ Pan, L. (2016, February 26). Why China Isn't Hosting Syrian Refugees. Retrieved from <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/>

¹⁴⁹ Refugees Welcome Index shows government refugee policies out of touch with public opinion. (2016, May 19). Retrieved from <https://www.amnesty.org/en/latest/news/2016/05/refugees-welcome-index-shows-government-refugee-policies-out-of-touch/>



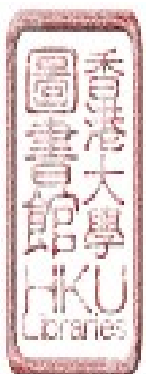
neighbourhood or household.”¹⁵⁰

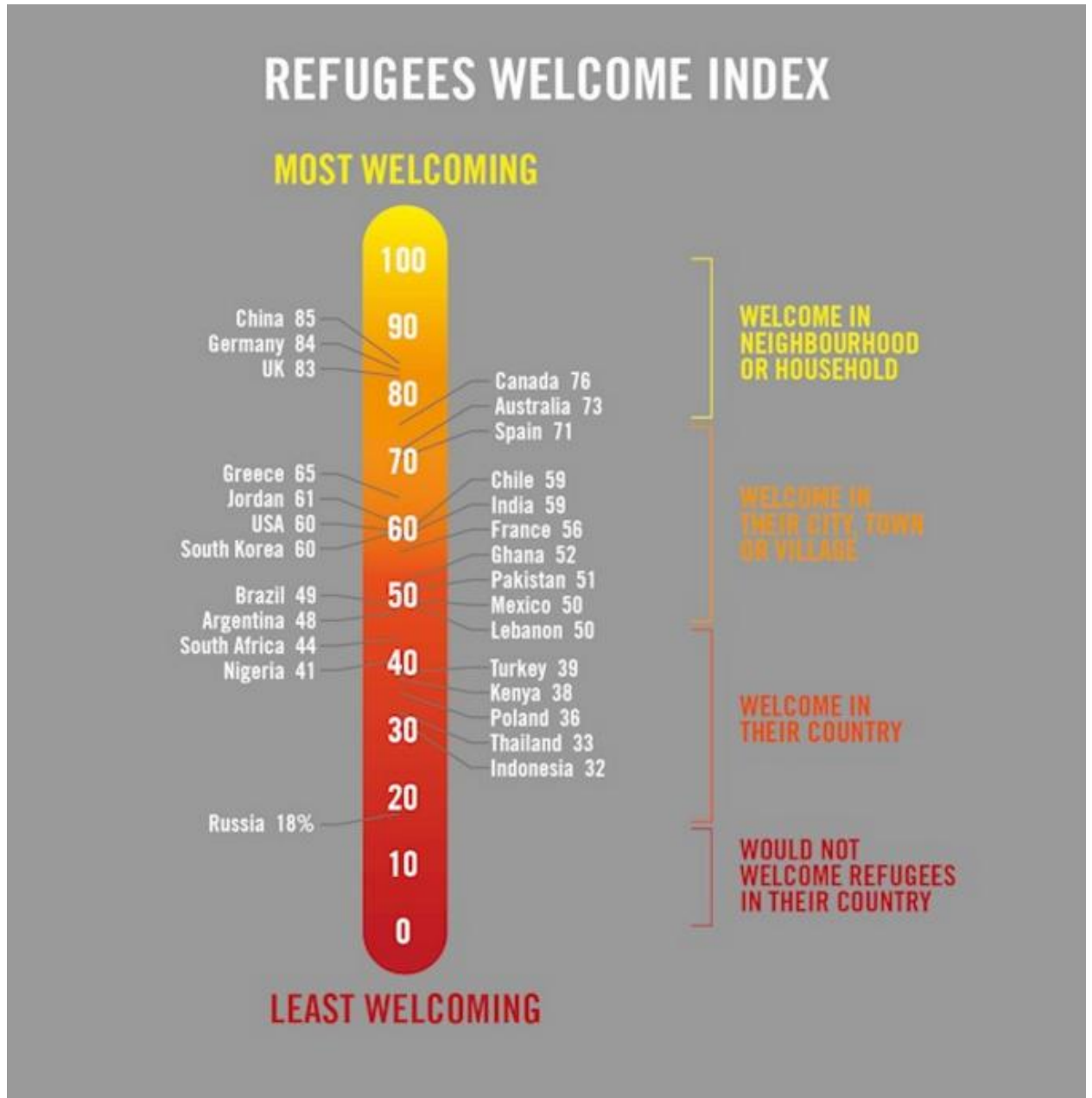


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¹⁵⁰ Ibid

¹⁵¹ Ibid

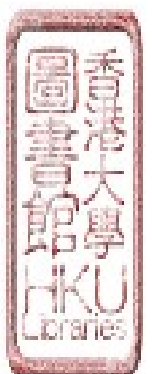




152

This data clearly indicates that the vast majority of Chinese people “seem[s] to be more committed to principles set down in international law than...their governments, who are increasingly tearing up or ignoring commitments that have stood for 65 years.” Consistent with the main argument of this paper, Shalil Shetty, Amnesty’s secretary general, goes on to say that “‘the West has not delivered’ in helping refugees...[and

¹⁵² Ibid

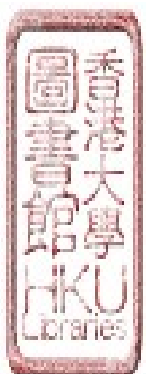


that he] would expect that the Chinese population is sending a message, you know, we would welcome them...so it's time for the government to do something about it.”¹⁵³ By only listening to the angriest and most vocal segments of society, the CCP is in danger of alienating the silent (vast) majority. If the CCP wishes to remain in power, it should be more sensitive to the demands of everyday citizens, demands which clearly favour of showing up the West by accepting more refugees.

The final challenge for China is its security concerns, which also are closely tied to domestic and regime stability. China has one of the most complex border situations in the world and holds like every country that the key to its internal security is to secure its borders. China's response to threats on its borders where refugees might arise, especially in the cases of Myanmar and the DPRK, has been to militarize around the vulnerable area. For instance, in Myanmar in early 2015, China “sent aircraft to patrol the border, and People's Liberation Army forces equipped with surface-to-air missile systems and radar [were] sent too, according to the Global Times, a state-run newspaper.”¹⁵⁴ This measure to defend its borders and secure its domestic power seems logical on the surface; however, actions like these risk making a tense situation even more dangerous, as “there is now a real possibility of direct military engagement between the People's Liberation Army and the Myanmar military,” according to an assessment [in March 2015] by Stratfor Global

¹⁵³ Chinese most welcoming to refugees, Russians least. (2016, May 19). Retrieved from <http://www.aljazeera.com/news/2016/05/china-uk-welcoming-refugees-russia-160519044808608.html>

¹⁵⁴ Perlez, J. (2015, March 21). Myanmar's Fight With Rebels Creates Refugees and Ill Will With China. Retrieved from <http://www.nytimes.com/2015/03/22/world/asia/myanmars-fight-with-rebels-creates-refugees-and-ill-will-with-china.html>



Intelligence.”¹⁵⁵ Additionally, responding to a humanitarian conflict with military measures is another image-damaging, heavy-handed tactic from Beijing.

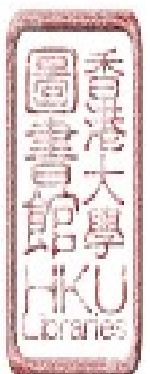
Do China’s Refugee Policies Really Tarnish its Legitimacy?

These last two sections will attempt to answer questions that one may ask in response to this paper: The first one examines specifically how China’s legitimacy is actually affected by its refugee policies.

China has had to endure diplomatic, economic and most importantly foreign policy costs as a direct result of human rights issues. When other countries raise concerns or criticize China about human rights issues they are referring to issues like its treatment of refugees. In the most recent case as of this writing, which this paper has already mentioned, Foreign Minister Wang Yi angrily and defensively addressed concerns about a Canadian national, Kevin Garrat, in China that has been detained without trial since 2014 for assisting North Korean refugees. The case itself has not only “strained relations between Ottawa and Beijing” but Wang’s reaction to a foreign reporter’s question in a foreign country has also sparked international ire, as “Wang’s rebuke suggested Beijing believed it could control foreign journalists just as it does Chinese journalists at home.”¹⁵⁶ This “arrogance” as one Canadian politician called it does nothing to improve China’s international image. Another recent example came on March 10, 2016. In a joint statement delivered to the Human Rights Council “a group including: Australia, Denmark, Finland, Germany, Iceland, Ireland,

¹⁵⁵ Perlez

¹⁵⁶ Kassam, A., & Phillips, T. (2016, June 02). Chinese minister vents anger when Canadian reporter asks about human rights. Retrieved from <http://www.theguardian.com/law/2016/jun/02/chinese-foreign-minister-canada-angry-human-rights-question>



Japan, the Netherlands, Norway, Sweden, the UK, and the USA”¹⁵⁷ made the following remarks: “We share the concerns expressed by the High Commissioner for Human Rights in the OHCHR’s February 16 press release highlighting China’s ongoing problematic human rights record.” It went on to “call upon China to uphold its laws and its international commitments.”¹⁵⁸

While these are merely very recent examples, it is clear that “the idea of human rights matters in Western policy toward China...and has been a persistent issue between China and the West since the Chinese government brutally repressed demonstrators in June 1989.”¹⁵⁹ The costs for China have not only been diplomatic, as “many U.S. sanctions on the PRC in response to the Tiananmen military crackdown in 1989 remain in effect.”¹⁶⁰ Additionally, “Beijing has also had to commit valuable policy resources to fend off Western human rights pressure; for example, offering financial incentives to developing nations to support it in its human rights disputes with the West.”¹⁶¹

The effects on its foreign policy and by extension its core interests are even greater still. For example, “China has faced an indirect linkage of human rights and other issues,” like Taiwan and Tibet. As Taiwan transitioned into a democracy, “this new political reality has led to greater American support for Taiwan and has undermined

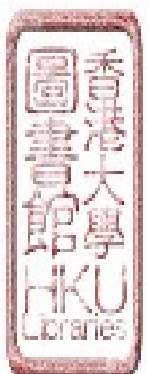
¹⁵⁷ Item 2: Joint Statement – Human Rights Situation in China. (2016, March 10). Retrieved from <https://geneva.usmission.gov/2016/03/10/item-2-joint-statement-human-rights-situation-in-china/>

¹⁵⁸ Ibid

¹⁵⁹ Wan, M. (2001). *Human rights in Chinese foreign relations: Defining and defending national interests*. Philadelphia: University of Pennsylvania Press. p. 129

¹⁶⁰ Lum, T. (2011). *Human Rights in China and U.S. Policy*. Washington D.C.: Congressional Research Service.

¹⁶¹ Wan, M. (2001). p. 137



America's traditional "one China policy."¹⁶² How Taiwan is connected to refugee issues will be expounded upon in the final section. Further, China's rights abuses have directly contributed to worsening relations between Beijing and Tokyo with the result being that "the Chinese can no longer influence Japanese domestic politics as much as they used to. This explains in part Tokyo's growing assertiveness vis-à-vis Beijing."¹⁶³ Improved, or at least less antagonistic relations between Tokyo and Beijing would go a long way towards China securing regional hegemony. Finally, "media coverage of China's human rights abuses has tarnished Beijing's reputation and allowed European governments to adopt policies detrimental to vital Chinese interests."¹⁶⁴ These policies include advanced weapons sales to Taiwan by France and others, a clear negative effect on perhaps the most crucial of all Beijing's international core interests. Additionally, Europe has become more sympathetic towards the plight of the Dalai Lama, which has helped to internationalize the issue of Tibet and put in jeopardy another of China's core interests.

Conclusion

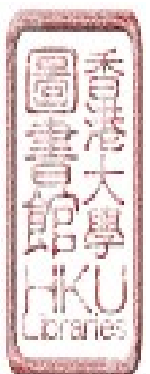
This paper concludes by asking why China should care about its legitimacy going forward and by looking at what the ramifications of an enhanced refugee role would be on China, the region and the globe's future.

Looking ahead, the degree to which China is perceived as legitimate, especially in the Asia-Pacific, will play a large role in shaping the future regional and global order. China's legitimacy will play a leading role in determining its ability to secure its

¹⁶² Ibid. p. 137

¹⁶³ Wan, M. (2001). p. 137

¹⁶⁴ Ibid. p. 137

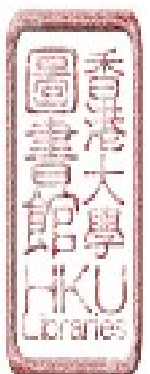


foreign and domestic core interests. These core interests include vital territories like Taiwan, Hong Kong, Tibet and Xinjiang. The more China is seen as legitimate in these regions, the better chance it will have to peacefully integrate them into the People's Republic. The tactic of coercion has not been successful in any of the four territories and has only led to resentment and even violence in resisting Beijing's authority. By altering its image and portraying itself as a more responsible power, Beijing will find it easier to persuade these territories that it is in fact in their respective best interests to be vital parts of what should be the most materially powerful country for decades to come.

For Beijing to accomplish this, it must show that it is not only materially powerful but that its non-material values and goals are convincing enough to be accepted and followed. To do this, Beijing must enhance its image by adjusting its policies that have made it so hard for those in the region to fully embrace its authority. As the Malaysian Defence Minister recently said, "The uncertainty of China's future trajectory is arguably the main driving concern about possible military competition now and in the future."¹⁶⁵ While this future trajectory will be determined in various ways, one way to alter it in a positive fashion would be for China to enhance its refugee policies.

With the West failing to provide global leadership regarding the refugee regime, China taking up the mantle would be a big boost for its legitimacy. What better way for Beijing to show that it is on its way to becoming a truly great and responsible world power than by properly handling a problem that has so befuddled the West,

¹⁶⁵ Brunnstrom, D. (2016, June 04). U.S. flexes muscles as Asia worries about South China Sea row. Retrieved from <http://www.reuters.com/article/us-asia-security-idUSKCN0YQ01N>



making it look increasingly incompetent in the meantime. “The current system of international protection for refugees is broken...[as] last year’s crisis in Europe revealed the weaknesses of the global refugee regime.”¹⁶⁶ China can display its international leadership and enhance its legitimacy globally and in the region while also contributing to its ability peacefully to settle some of its most vital core interests if it can muster the political courage to play a more constructive role in the refugee regime.

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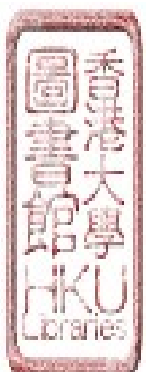
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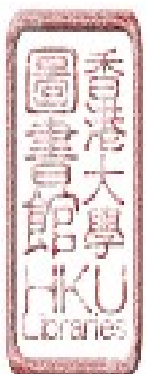
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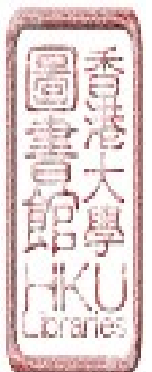
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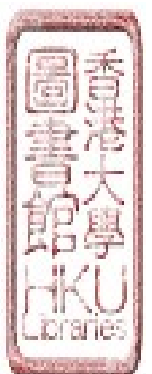
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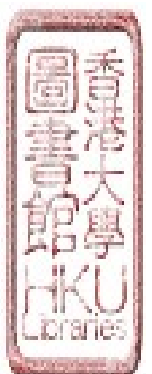
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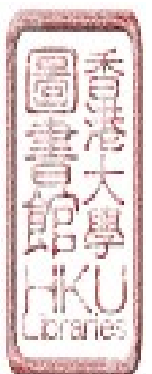
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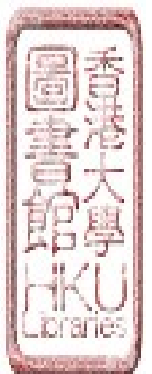
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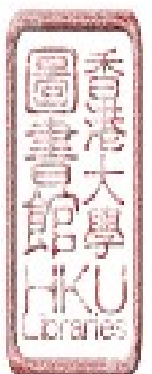


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Part IV by LAM Hoi-chi

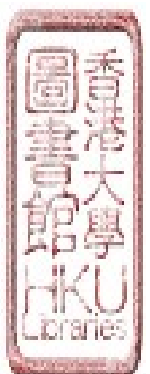
After evaluating the legal framework , domestic policy decision-making process and comparing Chinese refugee policy with other world powers, this part looks at the issue from wider perspectives, say China and the International organizations and provides way forward for what China can do.

China and the International Organizations

The basic principle of China's participation in international organization is equality and mutual benefit. Since the beginning of the reform era, China has been joining different international organization as well as seeking to join them. The People's Republic of China assumed her seat at the United Nations in 1971 and is a permanent member of the UN Security Council. Over the decades, China has become increasingly active in multilateral organizations. China and the United States work closely with the international community to address threats to global security, including North Korea and Iran's nuclear programs.¹⁶⁷ With more than 22,000 km land boundaries, China's border countries include Afghanistan; Bhutan; Burma; India; Kazakhstan; North Korea; Kyrgyzstan; Laos; Mongolia; Nepal; Pakistan; Russia; Russia; Tajikistan and Vietnam. Given such a vast territory, the PRC government has legitimate interests in controlling her borders.

The PRC had all along adopted a non-interference policy when it comes to its foreign policy. The Chinese government refrains herself from criticizing the domestic policy and affairs of individual country. It follows that accepting or offering aids to refugees of neighboring countries is regarded as a sort of indicating political gesture.

¹⁶⁷ <http://www.state.gov/r/pa/ei/bgn/18902.htm>, last accessed on 30 May 2016



Refugees in China

Back then in the early 20th century, there had been an influx of White Russian who fled from the Russia after the 1917 Russian Revolution, or the Bolshevik Revolution. Most of the White Russians settled themselves in Manchuria, Harbin, Dalian, Tianjin, and Shanghai, forming a community.¹⁶⁸

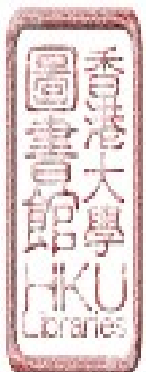
In the 1930s, there was record that some 30,000 Jews arrived in Shanghai from Europe to escape from the Nazi Germany. Shanghai seemed an unlikely refuge, but as it became clear that most countries in the world were limiting or denying entry to Jews, it became the only available choice. Until August 1939, no visas were required for entering Shanghai.¹⁶⁹

After the Communist Party established its control over China in 1949, the People's Republic of China, ironically, had been regarded as a source of asylum seekers or refugees over the past few decades, let alone a country who took an active role in offering protection to asylum seekers. Therefore, the level of participation in assisting international refugees was considered comparatively limited in scope when compared with her Western counterparts.

In fact, the influx of Indochinese refugees from Vietnam; Laos; and Cambodia in 1978 was the first refugee crisis that China faced. The Indochinese refugees were assisted by the Chinese Government upon their arrival. They were recognized by the government as refugees and had been resettled to the southern provinces. The

¹⁶⁸ <http://www.theasiamag.com/archives/2006/white-russians-in-shanghai>, last accessed on 26 may 2016

¹⁶⁹ <https://www.usmmm.org/wlc/en/article.php?ModuleId=10007091>, last accessed on 26 May 2016.



Indochinese refugee influx led to the establishment of UNHCR Office in Beijing in February 1980 and subsequently China's accession to the 1951 Convention relating to the Status of Refugees (the Convention) and the 1967 Protocol relating to the Status of Refugees (the Protocol) in September 1982.¹⁷⁰ The UNHCR Office in Beijing took the initiatives in conducting screening of refugees. It was worth mentioning that China was indeed one of the first Asian state parties to accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

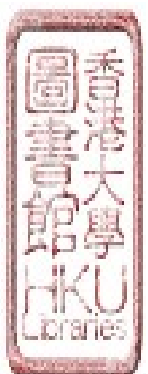
*It is reported that "From 1978 onward, China has successively received around 283,000 Indo-Chinese refugees in the spirit of humanitarianism. The Chinese Government has provided them with effective protections. UNHCR started assistance to them since late 1979, and set up its task office in China. In 1982, China acceded to the 1951 Convention on the Status of Refugees and the 1967 Protocol. China has made donations to the UNHCR Programs every year, and has provided other material or financial support within its means to refugees assisted by the UNHCR worldwide. China has maintained a friendly relationship with UNHCR. The High Commissioner for Refugees has visited China for several times. On December 1, 1995, the UNHCR Task Office in China was upgraded to its Mission in China. In May 1997, UNHCR further upgraded its Mission in China to its Regional Office, responsible for China and Mongolia affairs."*¹⁷¹

Quest for great power status

Since the early 1990s, with economic progress and modernization, China has

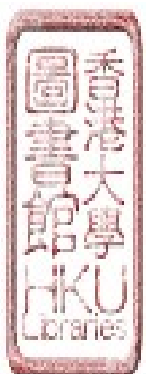
¹⁷⁰ Song, L. "Who Shall We Help? The Refugee Definition in a Chinese Context." *Refugee Survey Quarterly* 33, no. 1 (2014): 44-58. doi:10.1093/rsq/hdt022.

¹⁷¹ <http://www.fmprc.gov.cn/ce/cegv/eng/rqrd/jbcl/t85094.htm> last accessed on 24 May 2016



gradually increased her global outreach and participation in international organizations. China had also ratified five out of seven major international conventions on human rights, namely the International Covenant on Civil and Political Rights (ICCPR), International Convention on the Elimination of All forms of Racial Discrimination (ICERD), Convention on the Elimination of All forms of Discrimination against Women (CEDAW), Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child (CRC). The PRC government had signed the International Covenant on Economic, Social and Cultural Rights (ICESCR).

However, acceptance of refugees in China is mainly confined to those of Chinese ethnic origin. The PRC government had not stipulated domestic law to define refugees. The 1951 Refugee Convention and the 1967 Protocol had not been incorporated to domestic law. The definition of a refugee laid down in the UN convention: *“A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, 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; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”* However, there is no administrative procedure in respect of the screening and determining one’s refugee status. The Chinese government allows refugees in China pending a durable solution or resettlement. However, the PRC government does not issue travel documents to refugees and there is also a lack of a monitoring mechanism.



The number of asylum seekers or refugees had increased rapidly owing to the economic development in China. As of December 2015, there were some 301,622 identified refugees living in China. According to the Factsheet published by the UNHCR, 300,895 of which are Indochinese refugees who came in the late 1970s and 1980s. Around 160 persons, are refugees identified through individual refugee status determination (RSD) by the UNHCR Office in Beijing (UNHCR refugees). In addition, there are around 260 asylum-seekers residing in China.¹⁷² Among the 260 asylum seekers, there were people who came from Somalia, Nigeria, Iraq and Liberia awaited for resettlement. According the UN High Commissioner for Refugees (UNHCR) in Beijing, by the end of August 2015, there were 9 refugees and 26 asylum seekers from Syria in China. If the PRC is determined to be a global power, more should be done in alleviating the refugee crisis.¹⁷³

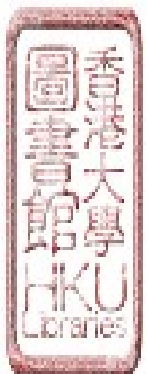
China's stance on refugees

To understand China's stance on refugees, we have to look into the basic principles of Chinese foreign policy. At the outset, China attaches great importance to mutual respect for territorial integrity and sovereignty, mutual non-aggression, mutual non-interference in internal affairs, equality and mutual benefit and peaceful co-existence. These principles are also the guiding principles on China's refugee policy.

In December 2001, the then China's Vice Foreign Minister Wang Guangya proposed four points to address the refugee issue at a ministerial meeting of State parties to the

¹⁷² UNHCR Regional Representation for China and Mongolia, Fact Sheets, Mar. 2013, available at: <http://www.unhcr.org/5000187d9.pdf> (last visited 26 May 2016).

¹⁷³ <http://foreignpolicy.com/2016/02/26/china-host-syrian-islam-refugee-crisis-migrant/> last accessed on 24 May 2016

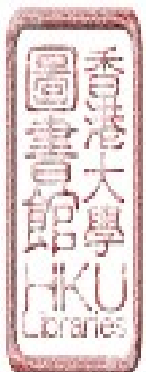


1951 Convention Relating to the Status of Refugees: (1) to safeguard world peace and promote common development in order to prevent the emergence of refugees at the root; (2) to effectively uphold the authority of the Convention and the existing regime for international protection and actively explore new ways and means for resolving the refugee problem; (3) to adhere to the principles of “international solidarity” and “burden sharing” and carry out international cooperation effectively; (4) strictly define the boundaries of the refugee issue, preventing the abuse of the protection regime and asylum policies as prescribed in the Convention.¹⁷⁴ This echoes with China’s foreign policy that all nations are equal and should have a say in world affairs.

China and recent European Refugee Crisis

More than 800,000 internal dislocated person entered Europe by land and sea and there was around 15 million people fled across the Middle East countries, particularly Syria. A statement published in September 2013 by the Embassy of the PRC shed light on China’s stance on the Syrian issue. *“China is deeply worried about the situation. China maintains that political settlement is the only realistic way out of the Syrian crisis. All relevant parties in Syria should take credible steps to implement the spirit of the communiqué of the foreign ministers' meeting of the Action Group on Syria, cease fire and stop violence immediately, positively respond to the initiative of holding the second Geneva conference on the Syrian issue, and start and implement a Syrian-led, inclusive political transition as soon as possible. Relevant parties in the international community should provide positive and constructive help for the political settlement of*

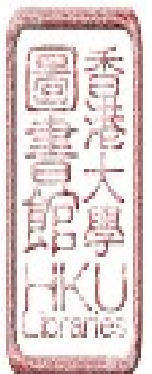
¹⁷⁴G.Y. Wang, PRC Vice Foreign Minister, “Statement at the Ministerial Meeting of States Parties to the 1951 Convention Relating to the Status of Refugees”, Geneva, 12 Dec. 2001, available at :<http://pg.china-embassy.org/eng/zt/rqwt/t46963.htm> (last visited 26 May 2016).



*the Syrian issue and avoid taking any action that could further militarize the crisis..... China has maintained an objective and just position and a responsible attitude on the Syrian issue. We are committed to protecting the fundamental interests of the Syrian people, maintaining peace and stability in the Middle East region and upholding the purposes and principles of the Charter of the United Nations and basic norms governing international relations. China has made consistent efforts to promote peace and encourage dialogue, firmly supported and actively promoted the political settlement of the Syrian issue, and supported Mr. Brahimi, UN-Arab League Joint Special Representative for Syria, in making impartial mediation. China will respect and support any settlement plan on the Syrian issue as long as it is widely accepted by all relevant parties in Syria. China has watched closely the humanitarian situation in Syria. We have provided humanitarian assistance to the Syrian people, including Syrian refugees in other countries, as our ability permits, and will continue to do so.*¹⁷⁵ China insisted that the Syrian issues should be dealt with by means of political settlement and that China would provide necessary assistance the Syrian people. One have to bear in mind that the Chinese foreign policy attaches importance that all countries should settle disputes through peaceful means and that no country should interfere the internal affairs of others. Most importantly, China will not impose her ideology or social system on to others.

In May 2014, China and Russia had voted against a draft resolution submitted by France and other countries in referring the situation in Syria to the International Criminal Court. Ambassador Wang Min, the Deputy Permanent Representative of China to the United Nations, had delivered a speech to elaborate China's stance on the issue. It is stated that *"The Chinese side believes that any action to seek recourse to*

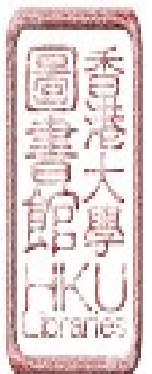
¹⁷⁵ <http://bw.china-embassy.org/eng/xwdt/t1076201.htm> last accessed on 25 May 2016



the ICC for perpetrators of serious violations should be conducted on the premise of respecting state judicial sovereignty and abiding by the complementary principle the current political settlement of the Syrian issue is faced with difficulty, the international community should strengthen confidence, maintain patience and unwaveringly adhere to the general direction of a political settlement..... stressed that the Chinese side has always held an objective and fair position on the Syrian issue. The Chinese side has no selfish interests and will not shelter any faction or person in Syria. As a permanent member of the Security Council and a responsible member of the international community, the Chinese side has always been committed to seeking plans for political settlement to the Syrian issue, and has provided batches of humanitarian assistance for Syrian people including overseas refugees through various channels. The Chinese side attaches great importance to reasonable concern on the Syrian issue of all relevant parties, especially Arab States. We are willing to maintain close communication with all relevant parties and make positive contributions to achieving proper settlement to the Syrian issue and safeguarding peace and stability in the Middle East”¹⁷⁶. Again, the PRC’s stance was to maintain close communication with all concerned parties to resolve the conflict in Syria. It is always China’s belief and foreign policy that historical issues should be settled through peaceful means.

In October 2015, in a regular press conference, when asked if China would plan to take actions to help relevant countries resolve the refugees issues faced by Europe and the Mediterranean, Foreign Ministry Spokesperson Hua Chunying's emphasized that, *“The Chinese side shares the international community's concerns about the issue of refugees recently faced by Europe and the Mediterranean. Yesterday, when talking*

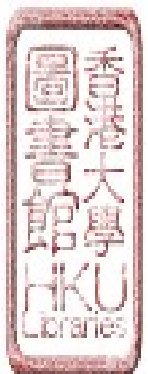
¹⁷⁶ http://www.fmprc.gov.cn/mfa_eng/wjbxw/t1161674.shtml last accessed on 25 May 2016



*with Croatian President Kolinda Grabar-Kitarović, President Xi Jinping said that the Chinese side follows closely the issue of refugees, sympathizes with the plight of the refugees, commends efforts made by all relevant European countries including Croatia to relocate the refugees and stands ready to offer another batch of assistance to refugees of relevant countries so as to help mitigate the humanitarian crisis. The day before yesterday, Vice Foreign Minister Wang Chao briefed journalists from home and abroad about China's humanitarian assistance to relevant countries when asked about the issue of refugees. Given the gravity of the issue and the approach of a chilly winter, the Chinese side will speed up within this year the progress of delivering announced humanitarian assistance to relevant countries in West Asia and North Africa, provide more humanitarian assistance to regional countries and help Middle East countries build up the capacity of taking in and resettling refugees, so as to fundamentally decrease the outflow of refugees from the Middle East and reduce the pressure on European countries.*¹⁷⁷

In December 2015, The UN Security Council unanimously passed a resolution which called for a ceasefire in Syria's civil war and political talks to be mediated by the UN to end the conflict. *"The resolution embodies the broad consensus of the international community, and demonstrates the important role of the Security Council,"* Chinese Foreign Minister Wang Yi remarked that *"Since the outbreak of the Syrian crisis, China has all alone held an objective and just position and participated in the settlement of the issue,"* *"China does not have or pursue selfish interest on the Syrian issue. No matter how we vote for or against, the goal is always to avoid war and turmoil, give the Syrian people stability, give peace a chance, and make political settlement*

¹⁷⁷<http://www.fmprc.gov.cn/ce/ceee/eng/ztlm/fyrth/t1306360.htm>, last accessed on 26 May 2016



possible."¹⁷⁸. In January 2016, China and Britain have agreed on a joint statement addressing the situation in Syria. Foreign Minister Wang stressed that peace talks and political solutions are the only correct ways to address the Syrian issue. China's efforts to promote talks and political solutions *"are totally in line with the Syrian people's fundamental and long-term interests"*¹⁷⁹

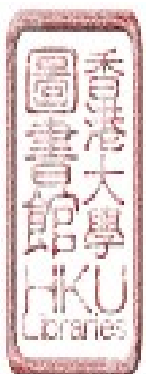
According to another Statement by Ambassador LIU Jieyi at the Security Council Debate on Syria in May 2016, *"The more complex the situation in Syria, the more essential it is to pursue a political settlement without wavering, to insist on enabling the Syrian people themselves to decide their country's future and destiny and on the role of the United Nations as the main conduit for good offices, to firmly support the work of Special Envoy de Mistura and ensure that the next round of the Intra-Syrian talks in Geneva is resumed as soon as possible. The parties in Syria should work on the principle of addressing the easier issues first and moving to more difficult ones, meeting each other halfway, establishing mutual trust and gradually arriving at a solution acceptable to all.... As a permanent member of the Security Council and a member of the ISSG, China has been working tirelessly to achieve a political settlement of the Syrian issue. At a meeting of ISSG foreign ministers, Mr. Wang Yi, Minister for Foreign Affairs of China, laid out China's four-point proposal for a settlement and put forward a specific programme for advancing the ceasefire and cessation of hostilities, expediting progress on humanitarian relief work and advancing the political process."*¹⁸⁰ China stressed the importance on political settlement in Syria again in the speech.

Indeed, given its geographical location, the role of the developed Asian

¹⁷⁸ http://www.chinadaily.com.cn/world/2015-12/19/content_22750512.htm, last accessed on 26 May 2016

¹⁷⁹ http://www.chinadaily.com.cn/world/2016-01/06/content_22945119.htm, last accessed on 26 May 2016.

¹⁸⁰ <http://www.china-un.org/eng/hyyfy/t1362530.htm>, last accessed on 30 May 2016



countries, such as China, Japan and Singapore are comparative passive in the recent European refugee crisis. Whilst the EU states are providing immediate humanitarian aids and assessment on refugees as well as relocation for genuine refugees, China has been requested to offer more. According to the German ambassador to China Michael Clauss, “Any contribution by China to help address Europe’s refugee crisis – whether financial or political – would be “welcome” and “appreciated”¹⁸¹

According to the United Nations’ Office for the Coordination of Humanitarian Affairs, China had so far donated US\$ 14 million in humanitarian aid to Syria. Foreign Minister Wang Yi called for the convening of the third UN-backed Geneva conference on Syria with a view to bringing together all parties for a discussion on the peaceful resolution of the conflict in the region. The Ministry of Commerce said the Chinese government would contribute an amount equivalent to HK\$122 million for humanitarian aid to Syria, Jordan and Lebanon.

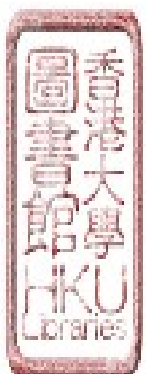
What is China doing?

The Chinese government tolerates the presence of asylum-seekers or refugees but rarely provides any support. The reasons being lack of a screening mechanism and that screening is solely done by the UNHCR in Beijing. Secondly, if China takes a proactive role and is ready to grant refugee status to foreigners, it will attract more people to come from the neighboring Asian countries.

Article 46 of the Exit-Entry Administrative Law stipulates that, “*Foreigners applying*

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<http://www.scmp.com/news/china/diplomacy-defence/article/1873546/chinas-help-eu-refugee-crisis-would-be-welcome-says-last> accessed on 24 May 2016



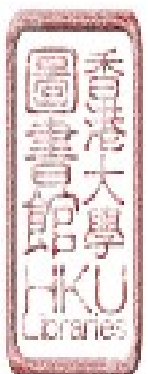
*for refugee status may, during the screening process, stay in China on the strength of temporary identity certificates issued by public security organs; foreigners who are recognized as refugees may stay or reside in China on the strength of refugee identity certificates issued by public security organs”.*¹⁸² As the Government of China does not provide assistance to refugees, the UNHCR office in Beijing has a direct assistance programme that covers essential needs of the entire refugee population (numbering approximately 200) and exceptionally vulnerable asylum seekers in the sectors of food, shelter, health, education, and social services.

Unlike her Western counterparts, China is relatively new to the concept of offering refugee protection. China had little experience of receiving refugees or asylum-seekers before the mid 1990s. Moreover, the PRC government does not see the importance of enacting refugee law in China. On 1 July 2013, the Law on Exit and Entry Administration (the Exit and Entry Law) which was promulgated by the Standing Committee of the NPC on 30 June 2012, entered into force, superseding the 1985 Law on Administration of Entry and Exit of Borders of Aliens. 21 Under Article 46, the new law allows applicants for refugee status to stay temporarily in China during the Refugee Status Determination (“RSD”) process and persons granted refugee status to stay and live in China. These are the first provisions regarding the treatment of refugees in China’s domestic law. As a positive step, refugee protection has been improved and that asylum seekers are allowed to work with an identity card.

The Unified Screening Mechanism (“USM”) in Hong Kong

Being part of China, Hong Kong has her own screening mechanism when it comes to those intended to seek protection in Hong Kong. A Unified Screening Mechanism

¹⁸² <http://cs.mfa.gov.cn/wgrlh/lhqz/lhqzjjs/t1120988.shtml>, last accessed on 30 May 2016

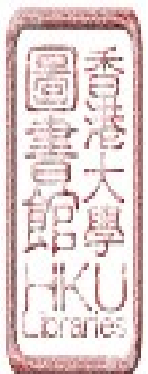


(USM) had been in place to determine claims for non-refoulement protection against expulsion, return to or extradition from Hong Kong to another country on applicable grounds including risks of torture as defined under the United Nations Convention Against Torture (CAT); torture or cruel, inhuman or degrading treatment or punishment under Article 3 of Section 8 of the Hong Kong Bill of Rights Ordinance and/or persecution under Article 33 of the 1951 Convention Relating to the Status of Refugees. In short, the USM screens refugees based on torture and cruel, inhuman or degrading treatment or punishment, as well as persecution.

Between March 2014 and December 2015, 3,165 non-refoulement claims have been screened, of which only 18 were substantiated. As at end 2015, 10 922 claims were pending screening. 80% of claimants are from South or Southeast Asian countries including Vietnam (21%), India (19%), Pakistan (18%), Bangladesh (12%) and Indonesia (10%).¹⁸³

Hong Kong does not resettle asylum seekers, because it is not a signatory to the UN Refugee Convention. But if a protection claim is substantiated on grounds of persecution, the claimant will be referred to the United Nations High Commissioner for Refugees for resettlement in a third country. The HKSAR Social Welfare Department (“SWD”) provides material support to asylum seekers and refugees in Hong Kong through a contract with International Social Service Hong Kong (“ISS”). Core assistance in the form of basic food and shelter is supplemented by contributions from a number of other private individuals and organizations.

¹⁸³ <http://www.legco.gov.hk/yr15-16/english/panels/se/papers/se20160202cb2-648-5-e.pdf> last accessed on 26 May 2016



The way forward

China is the second largest economy in the world. Being also a member of the Executive Committee of the United Nations High Commissioner for Refugees; China has the capability to do offer more in the international refugee crisis. The people of China, Germany and the UK are the most welcoming to refugees in the world, according to an Amnesty International survey on attitudes towards those fleeing war and persecution. In a global survey of 27,000 people across 27 countries, nearly 70% said their governments should be doing more to help refugees, while 80% said they would accept refugees living in their country, city, or neighbourhood.¹⁸⁴

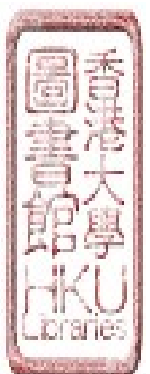
The PRC government hosted only 35 Syrian refugees. Meanwhile, the PRC officials have even attacked the West both for destabilizing Syria and for failings in welcoming those displaced, arguing that refugees are not China's responsibility¹⁸⁵. There are voices have grown louder globally for China to do more to help address the flow of refugees travelling along the western Balkans migration route, especially as winter approaches and the refugees face extremely harsh conditions. Therefore, China may take a proactive stance in resolving the conflict. China may host more Syrian asylum seekers, offer humanitarian relief to international bodies in dealing with the Syrian crisis and most importantly, to assist in mediating the situation in Syria.

Apart from taking part in the Syrian crisis, China may introduce a transparent screening mechanism domestically to identify genuine refugees and economic migrants. The PRC government may legislate a comprehensive domestic or national

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<http://www.theguardian.com/world/2016/may/19/refugee-crisis-china-germany-uk-most-welcoming-countries-amnesty-international>

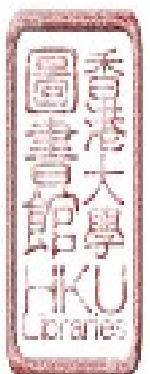
¹⁸⁵ <https://chinadigitaltimes.net/2016/05/chinese-attitudes-toward-refugees-lost-translation/>, last accessed on 26 May 2016



law regarding asylum seekers. On the other hand, Chinese government should adhere to the principle of non-refoulement under the Refugee Convention and Protocol when it comes to dealing with refugees from North Korea. Moreover, it is recommended that China to enhance protection for all persons of concern and to pursue durable solutions for refugees in mainland China, including allowing the Indo-Chinese refugees to resettle within the territory. The authority may train-up more officials and personnel when dealing with asylum seekers so that they can work in tandem with the UNHCR in Beijing. It is also importance that the Chinese government raises public awareness on global refugee issues and to provide channels for the public to donate to refugees elsewhere.

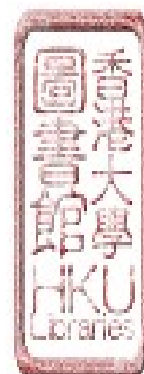
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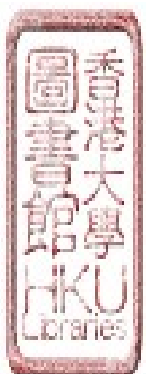


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Conclusion

As we mentioned at the very beginning of our project, the global refugee system is like a spectrum, one end of the spectrum is the policies that have enacted comprehensive refugee laws for refugee status determination and offering reception conditions including the right to work. At the other end of the spectrum is the countries with few relevant legal provisions, a lack of refugee status determination, and inconsistent approaches toward refugee arrivals that may be influenced by a greater degree by political or foreign policy considerations.¹⁸⁶ China appears to be situating itself in the later end of the spectrum as reflected by the limitations of its existing policy. There are both domestic and external needs forcing China to do more and for her own national interests, China has to do more as suggested in the above mentioned way-forward.

-End of Project-

¹⁸⁶ Loper, K. "The Protection of Asylum Seekers in East Asian State Parties to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol", In Abass, A., & In Ippolito, F. (2014). *Regional Approaches to the Protection of Asylum Seekers: An International Legal Perspective*. P347-376.

