

## Freedom of Movement

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Democratic People's Republic of Korea Socialist Constitution, Chapter 5, People's basic rights and duty, Article 75 states the following: "the people have freedom of traveling and living." However, unfortunately, the series of events international organizations have identified over the past years reveals that the people in DPRK are limited from the freedom of movement and are tied to a certain geographical location. The government forcibly imposed on its citizens where they must live and work according to their social class, limiting their domestic movement, and strictly prohibiting international travel. Any attempt to travel without government permission is punishable by the government. For improvement of the human right circumstances in DPRK, the upmost important human right issue is tackling the freedom of traveling issue. The following essay will provide reasons why this is the most important human right issue in DPRK and how could it be solved.

Hansik Park, from his book "Think across the line" stated that human right can be categorized into three parts: right of survival, right of equality, and right of choice. The right of survival is the upmost important issue. If individuals are under constant threats without the social help to protect them against the threats, any freedom of one will be violated from the threats, naturally human rights will be undermined. Second, right of equality highlights that the human rights should be observed from the social perspective. If the wealth gap between rich and poor is extremely bipolarized that the poor people are sabotaged from participating in making any social decision, they will not be able to entertain the same social rights as that of the wealthy people, and their human rights will be undermined. Third, the right of choice represents people's freedom to choose. If one's range of options is limited due to a poor financial circumstances or political pressure from the government, his or her decision making will be significantly limited and hindered, actively undermining one's freedom.<sup>1</sup>

Limiting the freedom of movement greatly harms all three categories. By preventing people from freely traveling, the people's right of choice is harmed; they will not only be unable to freely communicate with people on different regions but also their choice of goods will be limited due to difficulty in transportation of goods in individual level. Right of equality will be undermined since the freedom residence is solely decided by the states according to individual's social status. DPRK has created a socioeconomically and physically segregated society where people considered politically loyal to the leadership can live and work in favorable locations such as Pyongyang, while families considered politically suspicious to

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<sup>1</sup> Hansik Park, "Think across the line", bookie, 2018, p. 78-80.

live in marginalized areas with poor infrastructure. The state will invest solely on a few areas where it deemed to be politically safe while turn its back against the areas with politically relegated residents, this would further intensify the inequality between the areas and people. Lastly the right of survival is harmed. Anyone who attempts to leave the designated area will automatically be a criminal without any protection of the state. They, especially women, become extremely vulnerable targets to human trafficking, potentially being forced to into prostitution. Women who give birth to children in China cannot even register their children with the Chinese state, children are remaining stateless and unprotected. Repatriated women in prison who are pregnant are regularly subjected to forced abortions, and babies born to repatriated women are even often killed.<sup>2</sup> The limited freedom of travel infringes upon all three categories of the human rights, requesting immediate focus of the international society

Why is the freedom of movement the most urgent human rights issue to be addressed? Because the freedom of movement is the overarching force affecting other human rights issues in DPRK. In order to solve any DPRK human rights issues, the freedom of movement must first be addressed. For enhance of human rights, people must communicate with each other, sympathize with others, spread awareness of the problems, and raise united voice against the state asking for improvement of their human rights. This is especially important in the state-centric nations such as DPRK, where international organizations and private sector have extremely limited capacity to address any social issues. Due to limited freedom able to exercise inside DPRK, the change in DPRK cannot come from the external forces but must come from the internal force, from the people of DPRK. Therefore, communication and unification of the people is necessary to solve any HR issues. However, lack of freedom of movement is preventing people from making a contact, hindering communication, sharing information, and having a united goal. Therefore, the freedom of movement must be prioritized.

A communication platform between the people in DPRK is the market (Jangmadang). Without developed and reliable information technology or media to communicate between regions, people rely mostly on physical contact to communicate with each other. However, since individual freedom to travel is limited, an individual cannot expect to encounter and communicate a person from different regions during one's daily life. Only in Jangmadang, exchange of goods and information between the people from different areas can be relatively actively shared. Therefore Jangmadang serves as a communication platform with a

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<sup>2</sup> A/HRC/25/63, "Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea", United Nations, Human Rights Council, 2014, p. 9.

transportation of people and communication of information.<sup>3</sup> According to the survey carried out by Minhyuck Choi, 40% of under forty and 34% of over forty answered that they could access South Korean media materials from Jangmadang.<sup>4</sup> With the development of Jangmadang, demand for the foreign information in the market has increased; foreign music, movies, dramas flew into DPRK in USB, CD, telephone, computer, and MP3. In Pyeongyang, South Korean videos are traded in USB; some are even professionally selling the foreign videos.<sup>5</sup> Spread of information inside DPRK was possible because of the failed distribution system, the market was created and travel of people and goods, along with exchange of information and communication took place instead of the government organized distribution system.<sup>6</sup> Jangmadang is functioning as the platform for the people to communicate, share united issues, and stand up for their rights against the state.

Due to rise of Jangmadang, people could relatively entertain more freedom of traveling than before. In DPRK, for any individual to travel or change a house, the government should authorize. In a few exceptions, such as death or marriage of a family member, the state does authorize individual to travel, but procedures to get permission is difficult and can later be revoked. Even if one does have permission, the state minimizes the travel period to prevent travellers from engaging in any unreported social activities. For individual to travel, one must first report to his company or organization his reason and period to travel, then the organization analyze one's legitimacy of traveling and pass the decision to the state, thirdly, state check the applicants political and social backgrounds, and issue permission accordingly, finally, the applicant go through an interview with the state officer to get the travel permission. All the procedures are extremely time-consuming. To go to certain regions, such as Pyeongyang and border regions, one needs the travel certificate and yet another permission from the State Security Agency. To prevent political suspects from entering Pyeongyang or border regions, the State Security Agency sets a limit to the number of people able to enter the areas. The number ranges from 100 to 500. The Agency prioritizes the individuals with certified loyalty to the government in issuing the permission. However, due to chronic famine since 1990s, the procedures got simplified; individuals applying for travel to purchase food are mostly accepted from the state. Moreover, many cities are now

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<sup>3</sup> Handong Bae, "Intimate relationship between DPRK Labor party and Jangmadang", Kyungbuk Maeil, Kyungbuk University Honorary professor, 2<sup>nd</sup> November 2015.

<sup>4</sup> Minhyuck Choi, "An empirical study on the effects of Jangmadang on the economy and system of North Korea ", 2016, pp. 117 ~ 118.

<sup>5</sup> Dongwan Kang, "The Korean wave, shaking North Korea", Neulpum plus, 2011, pp. 37-79.

<sup>6</sup> Bongsu Kim, "Effect of Jangmadang on people's welfare in DPRK", Korea university, 2017, pp.75.

accepting the travel certificate from one's company and organization instead of the government. According to a survey, over 25.4% answered that they could relatively freely travel to other regions within DPRK while over 58.3% said they could not freely travel.<sup>7</sup> This proves that although traveling inside DPRK is still strictly restricted, an individual is able to travel and trade. Further proves that the collapse of distribution system and the rise of Jangmadang have given freedom for people to travel.

How does the freedom of traveling can be improved in DPRK through the use of international human rights protection mechanism? Although painful, we must acknowledge that the OHCHR failed to create a meaningful change inside DPRK. Of course its continuous strive for the betterment of the human rights in DPRK has lead DPRK to rectify or set up some new laws inside its regime. For instance, on 8th November 2017, 1554th meeting, 68th session committee on elimination of discrimination against women, the delegations of DPRK Ri Kyong Hun stated that in adherence to the request of the Convention on the Elimination of All Form of Discrimination Against Women(CEDAW), the new law to guarantee the women's rights is passed in 22nd November 2010 in DPRK. Due to exclusiveness of DPRK, practicality, level of implementation, how it got implement cannot still be monitored. Therefore the success of the 2010 law is in much doubt. However the fact that DPRK reacted to the international organization's requests and rectified its legal system to meet the standard is promising. In the past, DPRK ignored or even denounced any feedback from the international organization. In response to the adoption of HRC resolution 22/13, DPRK publicly stated that it would totally reject and disregard the resolution.<sup>8</sup> Furthermore, North Korean Ambassador to the UN, So Se Pyong, denounced the Commission as "an instrument that serves the political purposes of the hostile forces in their attempt to discredit the image" of North Korea, while denying that any human rights abuses existed in his country.<sup>9</sup> DPRK either rejected or denounced any international organization's feedbacks seeking for a change in DPRK. However recent acts of DPRK show that it has willingness to adhere or consider the international organizations' ideas. We must take this chance to examine, monitor, advice, and publicly report on human rights situations in DPRK.

Han Tae Song, Permanent Representative of DPRK to the UN Office in Geneva, stated in his address on November 2017, that DPRK shall not accept the human rights advices from the

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<sup>7</sup> Sunggeun Cha, "Possibility of initiating transition on the NK political structure and populace sociopolitical mind-set analysis", Kyonggi University, 2015.

<sup>8</sup> "UN Human Rights Council's "Resolution on Human Rights" against DPRK Rejected by DPRK FM Spokesman", Korean Central News Agency Pyongyang, DPRK October 12, 2014.

<sup>9</sup> Erlanger, Steven (March 21, 2013), "U.N. Panel to Investigate Human Rights Abuses in North Korea", The New York Times, March 11, 2014.

UN if it includes the followings: double standard, political manipulation, and false statements from the defectors. He claimed that "the United States and other hostile forces impede the enjoyment of people of their human rights in every possible way." He also stated that "During the period under review, there continued despicable attempts to defame image of DPRK by kidnapping our women." Theses clearly show us that the DPRK is unwilling to take any human rights intervention considered to be politically threatening to the state of DPRK. Therefore, the human rights in DPRK could first be solved through the measures not political and not ideological. Requiring for the freedom of religion or freedom of speech in DPRK would inevitably meet with great resistance from the government and would lead DPRK to distrust the international organization, and be more exclusive to any intervention. In order to truly improve the human rights situation of DPRK, the intervention should be first initiated from the economic level and gradually approach to other fields. Han Tae Song said in his address that "In order to fully implement the convention, we need to ensure quality education and health, favorable living conditions, as well as cooperation with international organization." This statement shows that DPRK is willing to cooperate with international organizations in the fields of education, health, and living conditions. This is a great improvement compare to that past when DPRK refused any type of intervention from the international organizations. By first engaging in cooperation in the fields requested by DPRK, the international organizations could present its capacity inside DPRK and convince the people and the state of their ability. If people experience improved rights and welfare in their daily life, it would be difficult for the DPRK state to withdraw from the international cooperation; instead it would be relying more heavily on the international organization, resulting in more area for the international organization to perform.

Tackling the freedom of movement using the international human rights protection mechanism will be comparatively easy for the following reasons. First, DPRK is in dire need of infrastructure. When Kim Jung Un first met South Korean president, Mun Jaein, he said that due to poor road quality in DPRK, traveling within DPRK is in much difficulty. Andrei Lankov stated that the road quality inside North Korea has worsen compare to the past. Despite dire need to repair the transportation infrastructure, DPRK does not have financial and technical resources to engage in repair. However, as the size of Jangmadang grows, the demand for the road repairmen is ever rising. Therefore, DPRK would welcome any foreign investment or intervention surrounding this issue. The OHCHR should send its working group to analyze the freedom of movement and transportation situation within North Korea and come up with a solution to improve the freedom. By identifying the regions with most movement, the working group could come up with appropriate solutions. Requesting for increase in the number of people allowed to travel into Pyongyang and border regions, or free travel between adjacent areas will not only boost the human rights of DPRK people but

also well-being of the people. Second, further limiting the freedom of movement is impossible for the state. As the size of Jangmadang increased, the movement of the goods and people has also increased over the past decade. Due to failed distribution system, the state has lost control and reason to limit people's movement. As the aforementioned status proved, freedom of movement in DPRK has already increased beyond the control of the state. The DPRK state would realize that further limiting the movement is both impossible and even harmful. Without both ability and incentive to limit movement of the people, the state would be more willing to take advice from the international organizations asking for the revision of the freedom of movement.

What could be done by using the international human rights protection mechanism? Since the OHCHR is not a branch with economic power, it cannot independently set up infrastructure inside DPRK. However, it could create exact data, identify the location with the most urgent need of help, and draw appropriate solution for DPRK, further urging other international branches to take actions in DPRK. In studying DPRK, the biggest problem is lack of information. Since collecting data inside DPRK is impossible, people have to rely on interview with the defectors or observation from the satellite. Even if DPRK want to execute its own data collection, due to technical and financial problems, the data cannot be fully credible. Therefore if OHCHR could get permission from the DPRK and exercise a full scale data collection inside DPRK, the data would help the world to understand DPRK much more. The data would help the foreign firms to invest in DPRK with more readiness. The OHCHR should also report to the Human Rights Council on its findings and recommendations, and also report to the General Assembly, asking for constructive support from the other states.

Disadvantage of using the international human rights protection mechanism is its practicality. Due to lack of any monitoring device to ensure adoption of the change, the international organization cannot know the current status quo and the future direction. However this could also be the biggest strength of OHCHR as well. The DPRK has clarified that it would not endorse any political manipulation of the human rights issue. To solve any human rights issue within DPRK, the state's help is essential. Therefore, the OHCHR, as an independent human rights branch, could approach DPRK without the suspicion of being linked with political power. Since the OHCHR does not punish or force the nation to adhere to its recommendations, the DPRK will less pressured in being scrutinized compare to other organizations. The OHCHR could convince the DPRK that it has no political incentive of undermining the regime, and focus solely on the human rights issues. Because the freedom movement is less political, ideological, and inevitable progression for DPRK, the OHCHR would meet with less resistances.