



Freedom of Movement in North Korea



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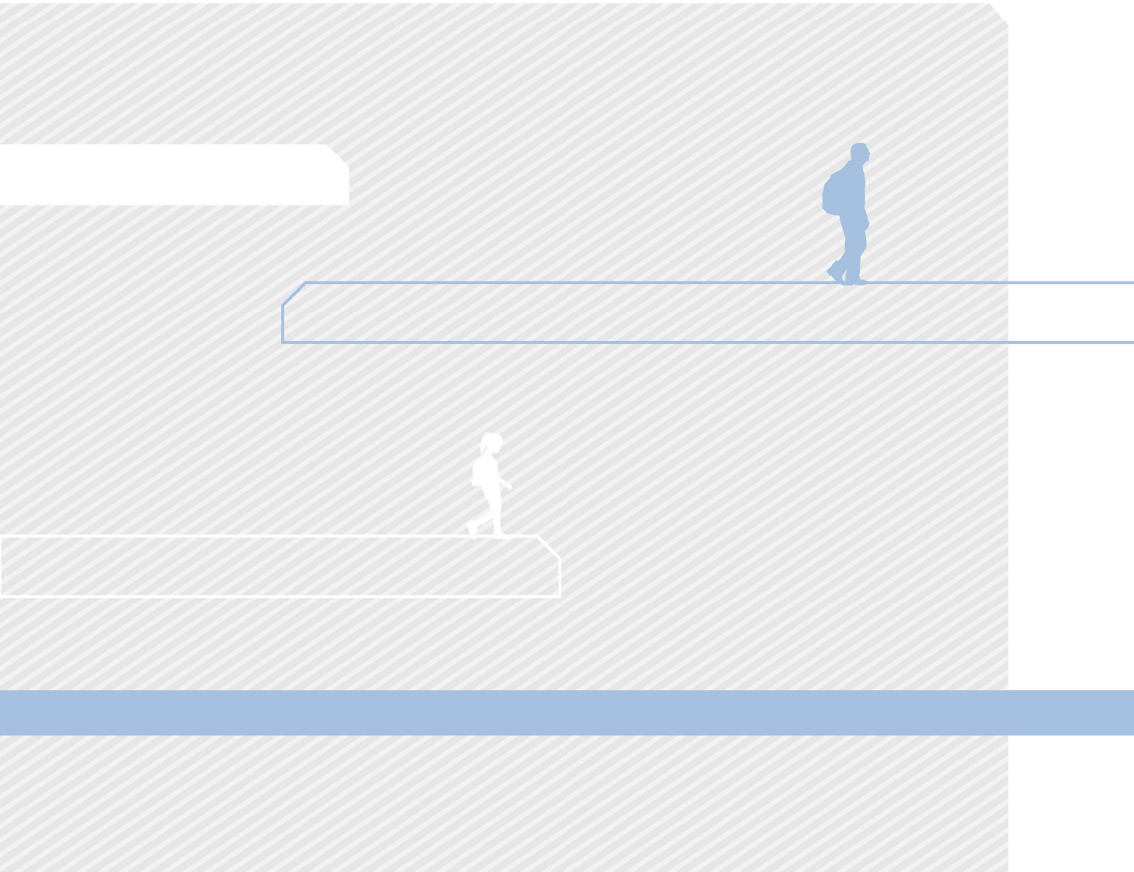
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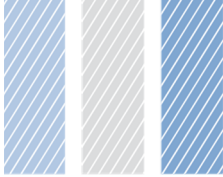




I

Introduction





I. Introduction

1. Social Changes and Freedom of Movement in North Korea

North Korean society can be analyzed from various perspectives. The situation of North Korean human rights violations can also be scrutinized based on international standards. With the start of the Kim Jong-un regime in 2012, there have been various attempts to describe North Korea's politics and society. One way to grasp the general scope of North Korea's society is to analyze the current conditions which North Korean residents face under Kim Jong-un's reign, by exploring the situation of human rights violations in North Korea. One can observe rapid social changes in North Korea through the growth of the *jangmadang* economy, rampant corruption, the regime's control of its people, among other aspects. In particular, the Kim Jong-un regime adopts strong social control by reinforcing control over outside information and culture, and interdicting defection attempts by border control. Yet, as state control increases, the people's way of life adapts and evolves accordingly.¹⁾ Understanding domestic freedom of movement in North Korea is a helpful analytical framework that effectively illustrates the country's rapid social changes. Since the expansion of freedom of movement directly relates to the influx of

¹⁾ See, Min Hong and Sun Song Park, *Domination and Resistance: Everyday life in North Korea* (Paju: Hanul Academy, 2013) (In Korean) for research using the North Korean authority's control and residents' everyday lives as a framework of analysis to observe changes in North Korean society.

outside information and changes to the people's awareness, it can be considered one of the key gauges to measure future changes in North Korean society.

One characteristic of North Korean society is that there is a strong social control mechanism. The state's leash on its people is actively being utilized to ensure regime stability and such tendency has grown when Kim Jong-un took power.²⁾ From the perspective of the North Korean people who are stripped of basic human rights, including freedom of movement and freedom of expression, people must be cautious of what they say or where they go. The expansion of freedom of movement does not simply mean that the people can move freely and enjoy a larger scope of activity. It signifies the restoration of humanity for the people as free individuals, and a decisive opportunity for the general population to experience a transition of awareness. Therefore, the international community has consistently focused on securing freedom of movement for the people of North Korea.

2. Freedom of Movement: International Status and the Situation in North Korea

The right to freedom of movement is one of the universal rights acknowledged by the international community. Article 12.1 of the International Covenant on Civil and Political Rights (hereinafter ICCPR) states "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose

²⁾ See, Hee-Chang Ahn, *North Korea's Ruling System: Governance System and Social Control* (Seoul: Myungjin Moonhwas, 2016) (In Korean) for research analyzing North Korea's social control in relation to the North Korean authority's structural governance system.

his residence.” Additionally, Article 12.2 stipulates that “everyone shall be free to leave any country, including his own.” Anybody legally residing in a particular area has the fundamental right to choose his place of residence, move when necessary, and leave.” Meanwhile, Article 12.3 states “the above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect natural security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.” In case restrictions on freedom of movement and residence are set in place, the UN Human Rights Committee states that the conditions must be clearly stipulated in domestic law and cannot be enforced to prevent people from leaving the country simply to protect confidential national information nor from moving within the country because people do not have a particular permit.³⁾

North Korea is a state party to the Covenant and defines basic freedoms of residence, travel and movement in their national legal codes. In the September 1998 revision of its Constitution, Article 75 “Citizens have freedom of residence and travel” was added. However, Article 30 of the People’s Security Enforcement Law which inspects the daily lives of the people stipulates that, “the people’s security organization with inspect public order in traveling and pedestrian walking.” Article 194 (Violation of Public Order for Travels) of the Administrative Penalty Law also says “Individuals who violate public order for travel or entered unauthorized areas shall be subject to

³⁾ UN Human Rights Committee, General Comment, No. 27 (1999), paras. 12, 16. “These conditions [for restricting the rights] would not be met, for example, if an individual were prevented from leaving a country merely on the ground that he or she is the holder of ‘State secrets’, or if an individual were prevented from travelling internally without a specific permit.”

warning, stern warning, fines, or unpaid labor or reform through labor for three months or less. In serious cases, the penalty shall be over three months of unpaid labor, labor education penalty, demotion, relief or termination from job position.” As such, North Koreans who violate travel orders or trespass into restricted areas are penalized by the authorities. Ultimately, although North Korea’s Constitution states the basic freedom of movement, domestic legislation limits the residents’ free movement and passage through the concept of establishing public order in traveling.

3. Study Purpose and Method

Given the rapid changes in North Korean society and international norms, freedom of movement is one of the key elements that illustrates the situation of human rights violations in North Korea. This study aims to provide an objective analysis on the situation of the freedom of movement and set forth implications of other related human rights violations on North Korea’s future changes. In terms of research methodology, this study objectively compares and verifies testimonies of North Korean escapees and relevant information for analysis. Specifically, the testimonies of North Korean escapees quoted in this study are mainly from the in-depth interviews conducted by the Korea Institute of National Unification (hereinafter KINU) Center for North Korean Human Rights Studies from 2012 to 2016.⁴⁾ Many studies that

⁴⁾ Since 2008, KINU Center for North Korean Human Rights Studies has systematically accumulated in-depth interview database. The main content in this study is based on the in-depth interviews conducted with North Korean escapees from 2012 to 2016. Moreover, survey results from 2017 have been included when necessary. Each testimony given by a North Korean escapee has been marked with a distinct number (NKHR-year of interview-number) in the footnotes.

address the situation in North Korea commonly face insufficient, discrepant, and even contradicting information. In particular, most studies that utilize escapees' testimonies bear the task of confirming the reliability of the testimony's details. Given such circumstances, this study chooses to introduce the content of the intensive interviews conducted for five years (2012~2016) by KINU Center for North Korean Human Rights Studies⁵⁾ as much as possible and unravels the actual situation of human rights violations by category.⁶⁾

In the process of researching the freedom of movement status in North Korea based on testimonies, it is necessary to discern and interpret them as somewhat redundant and contradicting. The significance of this process is that fact-checks or correlations can be observed while collecting various testimonies. Through collecting and interpreting these statements, the sub-categories identified are: travel permits and movement restriction; restricting access to specific areas by setting approval number areas; travel permits and surveillance on residents; exile for deviant behavior; exile to control a specific area; exile of escapees; strict regulations on immigration document issuance; reinforced immigration inspections; and strengthened inspections and penalties for illegal border-crossing people. These sub-categories can be re-interpreted as a framework which demonstrates both sustainability and change, two features that characterize the North Korean society in terms of freedom of movement. This study observes the situation concerning the freedom of movement in three main sections: ①control over people

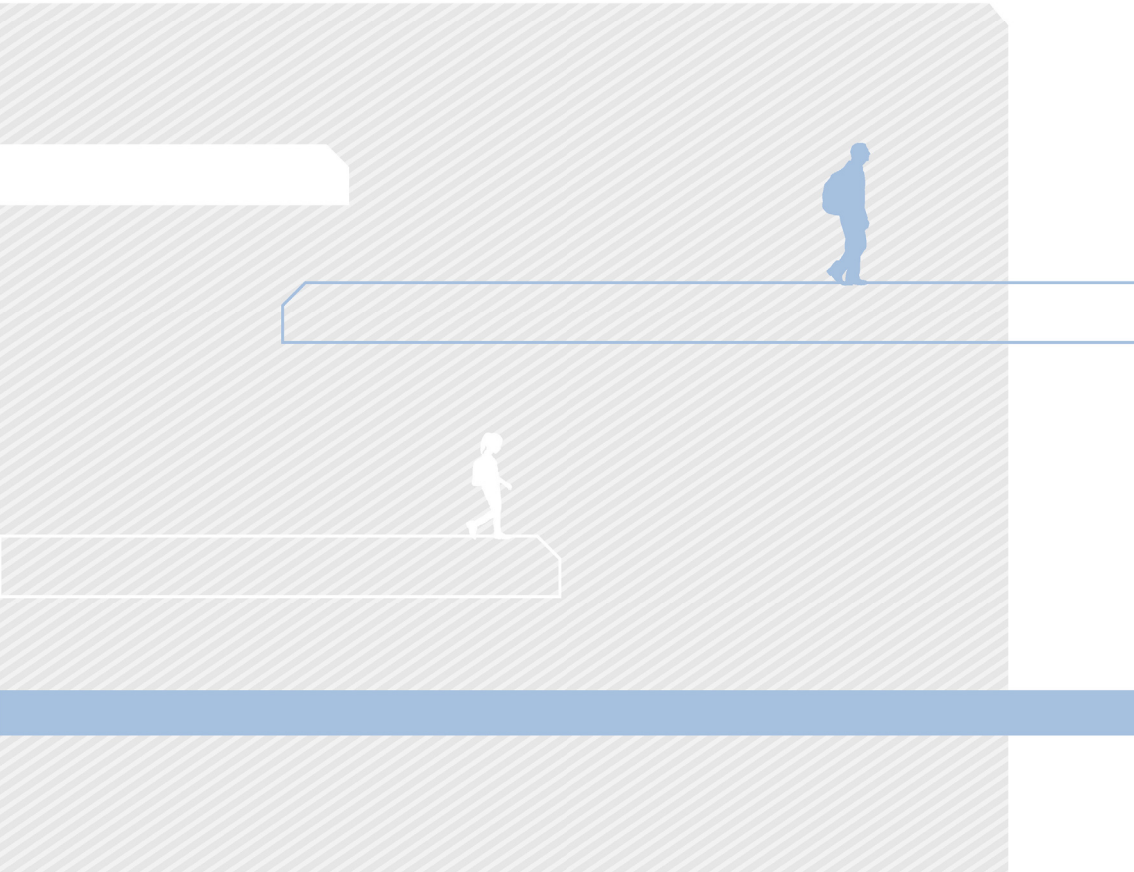
⁵⁾ Five years of in-depth interview materials covering 2012 to 2016 do not refer to incidents that occurred during the period, but the interviews conducted during the five years. Therefore, the actual date of numerous incidents include those that occurred prior to 2012.

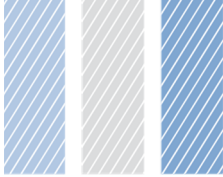
⁶⁾ This methodology relies on identifying related key words based on the testimony transcriptions. In other words, testimonies have not been re-interpreted based on a priori identification of key words, but the relevant testimonies were used to identify sub-topics.

with travel permits, ②forced deportation, and ③limiting border crossing and prohibiting the freedom to leave.



Control Over People with Travel Permits





II. Control Over People with Travel Permits

1. Travel Permit and Limiting Residents' Movement

The travel permit policy most clearly demonstrates the North Korean authorities' control over the freedom of movement. With the travel permit policy, the authorities can impose efficient control over the residents. In principle, all North Korean residents who travel outside their permanent residing area must have a travel permit and report their arrival to the People's Committee of their travel destination, which makes it possible to impose control over the entire population's movement. Habitation registration is a process of listing oneself on the habitation registration roster and reporting it to the local Ministry of People's Security (hereinafter MPS) agency. A travel permit is a mandatory document that North Korean residents must acquire for movement, known to be issued by the People's Committee.⁷⁾ In the case of state-run enterprise employees, they must acquire permission from enterprise accounting officers, police officers and intelligence officers, enterprise administration officers, and finally submit it to the Section 2 office of the provincial People's Committee for pass issuance, a process that is estimated to take 3~4 days.⁸⁾ For regular residents, they must

7) NKHR2012000223; NKHR2013000088; NKHR2015000031; NKHR2016000025.

8) NKHR2014000140.

receive stamps from the Neighborhood Watch leader, local officer director, the State Security Department (hereinafter SSD) officer, and local MPS, and submit it to Section 2 office for certificate issuance.⁹⁾

According to numerous testimonies, it takes one to three months for a travel permit to be issued. One escapee testified that without bribery, issuance takes ten days, but with bribery, it is possible to get it within a day.¹⁰⁾ Other similar testimony states that issuance through legal channels took about 15~20 days, but by giving a pack of cigarettes to a Section 2 officer, or in Pyongyang 15,000 won, issuance occurred immediately.¹¹⁾ As such, there were many cases where travel permits were given in a day or immediately when bribes were conferred.¹²⁾ One escapee who visited Gaecheon, in South Pyongnam Province, in November 2011 testified that it took about two weeks to get a travel permit after submitting an application and 1,500 won to Section 2 office. Normally, the travel permit's duration would cover one month, but it was possible to get up to three months extension at the travel destination.¹³⁾ A former resident of Cheongjin, North Hamgyeong Province, who acquired a travel permit to visit his/her relatives with a carton of cigarettes, testified that issuance abiding by legal procedures takes over three months, but besides special areas such as Pyongyang or Najin, anybody could travel anywhere with one's registration card and a bribe.¹⁴⁾ Another interviewee testified that a travel permit for

⁹⁾ NKHR2016000045.

¹⁰⁾ NKHR2016000097.

¹¹⁾ NKHR2015000008.

¹²⁾ NKHR2012000162; NKHR2012000222; NKHR2013000003; NKHR2013000208; NKHR2014000119; NKHR2015000113; NKHR2015000142; NKHR2016000003; NKHR2016000097. One interesting discovery is that issuance period would differ based on the amount of the bribe. One person who traveled to Sinuiju, North Pyongyang Province in 2013 testified that issuance would take place in 2~3 days for 15,000 won but would be issued immediately for 25,000 won. NKHR2014000188.

¹³⁾ NKHR2015000157.

Pyongyang would normally take 10~15 days, other non-capital areas would take 4~7 days, and three packs of cigarettes would qualify for on-the-spot issuance.¹⁵⁾

The travel permit policy is still implemented as the key mechanism to limit free movement. However, at the same time, the policy has shown hints of dissolve. Such circumstances are displayed generally in the issuing process and actual usage of the passes. However, it is difficult to generalize on the situation because there are varying testimonies per area or district. While travel permit issuance in principle is a free of charge service performed by Section 2 office, most North Koreans have been accustomed to bribing officials with money or cigarettes to get a travel permit. One interviewee said he/she received a travel permit within a day or two by paying Section 2 office an ‘express service fee’ of 15,000 won and believed this to be the ‘legal’ way.¹⁶⁾ One escapee who traveled to Cheongjin, North Hamgyeong Province in March 2015 testified that it took a month to attain a travel permit to visit his/her brother, and although there is no charge, he/she paid 20 yuan as a bribe.¹⁷⁾ It appears that as bribes are commonplace in North Korea, the line between what is legal and illegal has become blurry. Most North Korean escapees who had obtained a travel certificate from Section 2 office testified about their experience of bribing officers. Border areas and special districts like Pyongyang, Najin, and Sonbong are places where travel permit issuance is extremely difficult and requires a substantial bribe.¹⁸⁾ Similarly, there are statements that point out that if one’s travel

14) NKHR2016000098.

15) NKHR2016000175.

16) NKHR2013000077.

17) NKHR2016000171.

18) NKHR2016000069.

destination is the border area, a person would not be able to get a travel permit issued without “conferring a bribe”, legally or illegally.¹⁹⁾ On the other hand, while it is difficult and costly for people from other areas to access the border area, it is relatively easier for border area residents to travel to the South.²⁰⁾ It can be presumed that the general perception is travel permit issuance demands money.

Specifically, there were cases where a person conferred 80,000 won to reach Hyesan, a borderline area in the spring of 2012,²¹⁾ 30,000 won to travel to Pyongyang,²²⁾ and 3,000~5,000 won to travel to other areas.²³⁾ According to one testimony, it took three days to get a pass to Hyesan after paying 100 yuan.²⁴⁾ One escapee who applied for a travel permit for business purposes, said it cost 100 yuan to get to Hamheung, South Hamgyeong Province, and 200 yuan to go to Pyongyang.²⁵⁾ There was also a case where a person forged his/her registration card and travel permit to travel for business purposes, in which he/she received a registration card in two days for 10,000 won in North Korean currency, and a travel permit in a day with 10,000 won.²⁶⁾ One escapee who travelled to Pyongyang around 2013 paid 100,000 won, 30,000 won for other areas, and 30 dollars for borderline areas.²⁷⁾ One traveler who went to Hoeryeong in 2012 testified that normally it would cost 30,000 won for a pass to the border areas, but the price rose to a point where

19) NKHR2013000218. In borderline areas, it appears that providing cash or goods, such as cigarettes has become a prevalent to receive a travel permit.

20) NKHR2015000009; NKHR2016000126.

21) NKHR2014000003.

22) NKHR2014000002; NKHR2014000023.

23) NKHR2014000023.

24) NKHR2013000097.

25) NKHR2016000103.

26) NKHR2013000223.

27) NKHR2013000229.

he/she paid 80,000 won.²⁸⁾ One escapee who traveled from Yonsan County to Baekam County, Yanggang Province, conferred a pack of cigarettes at every step of obtaining a signature, and said that it cost 20,000 won for issuance on the spot.²⁹⁾

One escapee testified that he/she received immediate issuance of a travel permit to Bukcheong County, South Hamgyeong Province, to visit his/her family by conferring a pack of cigarettes to a Section 2 officer.³⁰⁾ Another traveler testified that in January 2013 he/she paid 20,000 won for a pass which took two days to get to Bukcheong County, South Hamgyeong Province, to visit his/her family.³¹⁾ Another traveler paid 15,000 won to a factory accounting officer for a one month travel permit in order to visit her in-laws living in Daedong County, South Pyeongan Province in November 2012.³²⁾ One traveler testified that he/she received two travel permits bound for the border area of Gungang County, Gangwon Province by paying 70,000 won in June 2012.³³⁾ There were also cases where people received a travel permit immediately or the next day by conferring two packs or a carton of cigarettes to a Section 2 officer.³⁴⁾

It appears that not only does the amount of bribe vary and but the situation and environment of a person also determines the outcome of travel permit issuance. One testifier stated he/she easily obtained a travel permit thanks to his father who was a respected farmer of the district, and had traveled to Hamheung, Wonsan, Nampo, and

28) NKHR2013000109.

29) NKHR2015000021.

30) NKHR2013000120.

31) NKHR2013000106.

32) NKHR2013000130.

33) NKHR2013000144.

34) NKHR2014000119; NKHR2014000131.

Pyongyang 2~3 times.³⁵⁾ There were many testimonies claiming that travel permit issuance was relatively easier for people with the right qualifications or ties with influential people. However, there were also numerous cases where travel permit issuance itself was a problem. One escapee, who had been captured during an attempted escape, was denied a travel permit, and bribing did not work.³⁶⁾ Similarly, another testifier stated that anybody whose family member is a known escapee could not obtain a travel permit.³⁷⁾ These people who are denied issuance have no choice but to turn to illegal means of travel.

The justification for applying for a travel permit is also important. The reason must be clear and it is known that visiting family members will lead to a higher chance of issuance.³⁸⁾ When obtaining a signature from a SSD officer, the purpose of travel must be evident.³⁹⁾ One escapee testified that in order to visit his/her daughter imprisoned at Jeongeori Prison located in Hoeryeong in 2009, he/she received a travel permit issued after conferring two packs of Craven A cigarettes to a Section 2 officer. He/she used a 'servi-cha'⁴⁰⁾ to move from Yeonsa County, Hamgyeong Province to Hoeryeong, and usually guard post inspections would let people pass if they say they have come to visit family members.⁴¹⁾

Meanwhile, in terms of the borderline areas, there were many who testified that movement within a province was possible with a

35) NKHR2014000196.

36) NKHR2016000164.

37) NKHR2015000064.

38) NKHR2016000171.

39) NKHR2015000021.

40) A 'servi-cha' is a mode of transportation for North Korean residents. It refers to vehicles registered by agency enterprises but are privately operated.

41) NKHR2013000236.

registration card even without a travel permit.⁴²⁾ One escapee whose hometown is Hoeryeong and carried out business in Cheongiin stated that movement within the North Hamgyeong Province only required one's registration card, but people who are not residents of the province needed a travel permit.⁴³⁾ This is not the result of legal institutional changes, but an outcome of social adaptation by North Korean residents. For instance, in cases in which a person has to travel by train to visit relatives, for business purposes, or for other personal reasons, he/she needs to possess a travel permit and a train ticket. Yet, it seems that it is very common for residents to get on a train and bribe the train safety officer or inspection officer.⁴⁴⁾ Merchants appear to frequently use the train to save costs.⁴⁵⁾ Because the travel permit policy is still in effect, residents are required to have a ticket, travel permit, and registration card. In reality, there are many who ride the train with only their registration card, because they can 'do business' with the safety officer on board. There appears to be cases where documents are fabricated in the process as well. There are even cases where people board trains without their registration card.⁴⁶⁾ People can board a train without their travel permit or train ticket by conferring one or two packs of cigarettes.⁴⁷⁾

Testimonies by North Korean escapees regarding travel permits cannot be easily summarized because each one tells a different story. Nevertheless, the key point is that while the travel permit system still

42) NKHR2014000065; NKHR2014000085; NKHR2014000113.

43) NKHR2013000202.

44) NKHR2016000033; NKHR2016000049; NKHR2016000081; NKHR2016000152.

45) In general, it has been said that those with money travel in cars and those without use trains. NKHR2014000164.

46) The testifier stated that possessing a registration card could lead to unnecessary inspection.

47) NKHR2014000065.

exists, the residents achieve their objectives by conferring a bribe, familiarizing themselves with the right people, and using their personal ties. In particular, since most people who apply for travel permit issuance are merchants, this is a matter of one's livelihood. In this aspect, while the North Korean authorities continue to impose movement control with travel permits, they seem to consider the fact that movement of the residents is directly related to their means of life. In order to live amidst the authorities' control, North Korean residents pay bribes and gain a certain level of freedom of movement, but this cannot be interpreted as expansion of freedom of movement since travel permits are given out discriminatively among the haves and the have-nots.⁴⁸⁾

2. Access Restriction via Designating Approval Number Areas

Article 194 of the Administrative Penalty Law stipulates the penalty clauses on 'those who illegally entered unauthorized areas.' Illegally entering unauthorized areas refers to the act of entering an area without a permit from the authorities. In other words, a special permit is required to enter the restricted areas established by the state. These sensitive areas where free entry is limited for the general populace are controlled by establishing approval numbers on certain areas. Approval number areas require special permits from the authorities to enter specific areas and 'approval number' refers to the permit numbers given by the SSD (Main agency is the MPS, coordinated with the SSD and the People's Army

⁴⁸⁾ See, Soo-Am Kim *et al.*, *Correlation between Corruption and Human Rights in North Korea* (Seoul: KINU, 2012) (In Korean) for research concerning corruption and human rights improvement in North Korean society.

Central Command⁴⁹⁾ after additionally confirming objective of travel and travelers' identification. Applications for an 'approval number' are roughly divided into group applications and individual applications. A group application refers to the issuing of an 'approval number' to individuals under a group name when they are going to attend conferences, meetings, celebrations, or for group travel in Pyongyang, which are official activities, whereas an individual application refers to the issuing of an 'approval number' to individuals after the North Korean authorities review the regulation of private entry such as a family's ceremonial occasion and medical treatment in the central hospital based on official prescriptions.

According to a testimony, a travel permit to these restricted areas is conspicuously different from an ordinary travel permit.⁵⁰⁾ A permit pass to approval number areas has several lines of assorted colors and a SSD secret code.⁵¹⁾ Areas with an approval number are broadly claimed to be central areas (including Pyongyang), special economic zones (Najin-Sonbong, Mount Kungang tour district, Shinpo Kumho district, North Pyongyang Province Yongbyon nuclear district, and North Hamgyeong Province Gilju district, etc.), borderline areas, and near DMZ areas.⁵²⁾ In addition, the whole Jagang Province which has a high concentration of military factories is treated as 'approval number areas'. A testifier mentioned that Jagang

⁴⁹⁾ On December 18, 2016, the Korean Central Television (KCTV) allegedly announced that the Ministry of State Security (MSS) changed its name to the State Security Department (SSD). Most testimonies used the term MSS, but the report uses the newly changed term except when it is used in testimonies, in which case the term MSS was kept.

⁵⁰⁾ NKHR2016000016.

⁵¹⁾ NKHR2014000085; NKHR2014000214. Permits for Pyongyang had a red line and an approval number, permits for borderline areas including Hyesan had a blue line with an approval number. Another testifier stated that Jagang Province had a red line, Pyongyang and borderline areas had a blue line, and other regions did not have a line. NKHR2013000077.

⁵²⁾ These areas with approval numbers or restricted areas are places where the region's residents' projects take place with priority. Afterwards, outside entry is strictly controlled for regional management. KINU Expert advisory meeting, August 16, 2017.

Province is more difficult to access than Pyongyang.⁵³⁾ If individuals attempt to enter ‘approval number areas’ due to private objectives, the scales of bribery for approval procedures (including the Section 2 office) are incomparable to those of getting a travel permit. In order to apply for an ‘approval number’ for various objectives, generally for business, an offer of money or items to administration officers or middle executive members (chief manager or intelligence officer) is very prevalent. Considering that most North Korean escapees in South Korea are originally from the borderline areas such as the Yanggang Province and South Hamgyeong Province, their repetitive testimonies may be valid only in those regions. At the same time, these statements are valuable in that they provide information about these areas. As mentioned previously, it appears that movement within a province is possible only with one’s registration card, but movement through other routes requires a travel permit or any certificate equivalent to a travel permit.

In fact, regardless of the restriction on entering unauthorized areas, most North Korean residents believe that it is uncommon for people to move to areas outside their hometown. The majority of North Koreans live their life in their home provinces unless they are forced to leave by life transitional opportunities such as pursuing a higher education, enlistment, or getting married, or other purposes such as tours, visiting relatives, or business. Moreover, traveling in the sense of leisure or enjoying one’s cultural rights does not exist in North Korea.⁵⁴⁾ Thus, Article 75 of the Constitution, which states that “citizens have freedom of residence and travel,” is only valid in legal terms and does not apply to the general population. The fact that it is extremely difficult to leave

⋮ 53) NKHR2016000069.

⋮ 54) KINU Expert advisory meeting, August 31, 2017.

one's hometown and a travel certificate requires a special permit to travel to particular regions like Pyongyang demonstrate how well-planned North Korea's control system is. As stated previously, the UN Human Rights Committee, as explained in its General Comment 27, interprets that 'prohibiting domestic movement because a person does not possess certain approved certificates' is not a limiting factor for freedoms of movement and residence in terms of international law.

In conclusion, the approval number areas in North Korea are implemented not for reasons of national security or public order but rather to control people's movement and entry. In particular, central areas are controlled in the name of 'head security', DMZ areas are controlled in the name of 'regime protection', and border areas are controlled in the name of 'regime control'. These controls have been systemically and regularly maintained. The fact that there are various approval number areas illustrates the traits of North Korea as a controlling state.

3. Travel Permit and Public Inspection

Public inspection is a routine element in North Korea. Normally the central inspection unit surveys any law violating actions. In terms of movement inspection, the safety intelligence officer or SSD officer inspects whether people possess their travel permits and uses them as grounds for a penalty. Inspection of travel permits is the main regulation enforced to control freedom of movement by a state agency, which is also closely related to habitation registration and other forms of inspection. Travel permit inspection is conducted at each checkpoint,

which at times connects with other criminal activities or discrimination. For example, one testifier stated that, during an inspection for traveling without a pass, the officer found out the testifier's mother escaped from North Korea, which rendered his/her violation as not simply traveling without a travel permit, but attempting illegal border crossing.⁵⁵⁾ An escapee stated that there are 12 checkpoints in Yanggang Province alone, allowing for consistent inspections.⁵⁶⁾ The borderline regions appear to have more guard posts. Between Hyesan and Bocheon, which is less than 40 *ri* (20km) apart, there are six checkpoints.⁵⁷⁾ Another escapee testified that while moving from Baekam, Yanggang Province, and Gosan, Gangwon Province, he/she passed 25 checkpoints.⁵⁸⁾

However, like travel permit issuance, inspections at checkpoints can be dealt with through bribes. A traveler who has been inspected testified that a bribe of 10,000 won or 20,000 did the trick.⁵⁹⁾ Another testified that there are five checkpoints from South Hamgyeong Province to Yanggang Province, and to avoid checkpoints because he/she did not have a travel permit, he/she had to detour two hours into the mountains and take the bus again, which took 12 hours in total.⁶⁰⁾ One testifier who visited her sister in Hamheung in March 2013, hired a 'servi-cha' for 6,000 won without applying for a travel permit, and did not have problems with inspections because the driver had ties with the

55) NKHR2017000054. The same testifier explained that his/her crime was interpreted as a crime against the state due to his/her mother's escape and thus he/she was interrogated by the city's SSD. It has been alleged that since 2013, the North Korean authorities considered those who simply crossed the border as an attempt to reach South Korea. Hence any acts of escape were charged with 'crimes against the state' with harsh punishment.

56) NKHR2016000029.

57) NKHR2015000059.

58) NKHR2015000071.

59) NKHR2016000137.

60) NKHR2015000009.

inspection officers.⁶¹⁾ Inspections of travel permits occur even when arriving at one's destination. Usually a travel permit is valid for 15 days or a month, but can be extended with bribery. One escapee testified that in the fall of 2012, he/she received an extension by conferring a pack of cigarettes to the local Section 2 office at Pyeongseong for business purposes.⁶²⁾ There are also testimonies that travel permits bound for approval number areas such as Pyongyang, Najin, and Sonbong can be extended from the basic 15 days or one month duration through bribery.⁶³⁾ However, habitation inspections and house searches continue even after a person succeeds in getting a travel permit and arrives at his/her destination. Especially in the borderline region, habitation inspections are performed twice a week. Inspections have been reinforced since 2015 to oversee everybody's movements. The neighborhood chief reports to the local MPS office on a daily basis and the MPS office reports to higher agencies.⁶⁴⁾ Therefore, in the case of borderline regions, people who have successfully traveled without a travel permit are still continuously exposed to the possibility of getting arrested or penalized by the inspections performed constantly that check a person's place of origin and documents. Inspections of travel permits could be the starting point for the North Korean authorities to implement other various types of social control mechanisms that transcends simple inspections on freedom of movement.

61) NKHR2012000201.

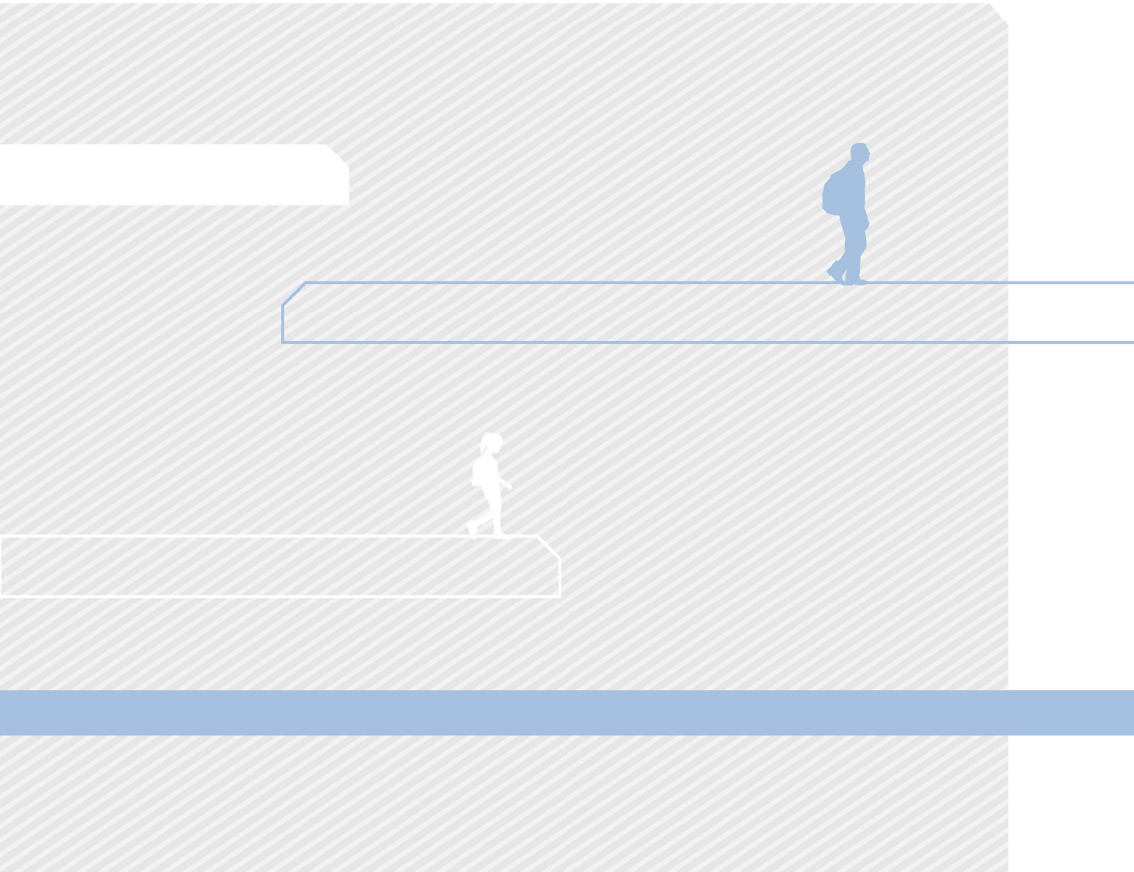
62) NKHR2015000134.

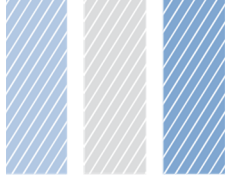
63) NKHR2015000142.

64) NKHR2015000152. The same testifier explained that house searches seek to catch anything illegal, including persons or items, while habitation inspections seek to identify whether a person from outside has entered the area.



Forced Deportation





III. Forced Deportation

Article 12.1 of the ICCPR proclaims that “everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.” The UN Human Rights Committee interprets that everyone has the right to settle in his/her choice of location, and this right includes protection from forced displacement.⁶⁵⁾ However, the reality in North Korea is that people are not given the right to choose one’s place of residence and are victims of forced displacement. As Article 50 ‘The Right to Use State Owned Private Homes’ of the Civil Law of North Korea (2007) states, the residential form ‘private home’ is state owned property given to North Korean residents to use, which is a right guaranteed by law.⁶⁶⁾ Thus, forced deportation is stripping away the using right, not property right, and is a severe punishment that may threaten people’s lives and the livelihood of North Koreans who are accustomed to only living in one location their entire lives since they are not granted the freedom of movement.⁶⁷⁾ However, forcible eviction has been openly executed and forced deportation is not a measure implemented by the Kim Jong-un regime. Deportation has existed from the start of North Korea’s

⁶⁵⁾ UN Human Rights Committee, General Comment, No. 27 Article 12 (Freedom of Movement), (1999), para. 7.

⁶⁶⁾ Article 50, Civil Law of the Democratic People’s Republic of Korea

⁶⁷⁾ According to one testimony, although there are cases where forcibly exiled people return to their residence, they are unable to return to their former house thereby wandering from area to area. NKHR2013000090.

communist regime and is still being practiced by Kim Jong-un to control and suppress the North Korean people by limiting and depriving them of houses.

Such forced deportation has many elements of human rights violations. First, although forced deportation is not established as lawful punishment in the Constitution, Criminal Law, or Administrative Penalty Law, it is frequently enforced as a type of punishment. There are cases when open trials sentence people to be deported, but there are also many cases where victims are unilaterally selected by investigation of the authorities without a clear due process. There is even testimony that claims a person had been “moved somewhere else early in the morning” even after receiving a sentence by open trial.⁶⁸⁾ Second, the scope of victims to be forcibly deported seems to be decided without standards based on the severity of the reason for deportation. Guilt by association is enforced almost every time, which means even the family members of a perpetrator involved in deviance or illegal activities share the punishment. Third, while the reason for a forced deportation could be illegal actions made by a family member, the measure is also enforced to control families of escapees and simply to move people who are deemed unfit — residents who are considered delinquent or ‘farmers’ — to reside in a certain area. There were other cases where released prisoners from the prison camps (*kyohwaso*) and their families were exiled from particular areas. Fourth, regardless of the scope or reason for a forced deportation, those families who have been collectively exiled are thrown into devastating living conditions without any preparation. It is known that they are moved to desolate areas where it

∴ 68) NKHR2014000010.

is difficult to sustain a living.⁶⁹⁾ Forced deportation can be summarized into the following four types: ①deportation due to deviance, ②deportation to control a specific area, ③deportation of family members of an escapee, and ④deportation for other reasons. Meanwhile, there are testimonies that state forced deportation has decreased after Kim Jong-un took power. As residents who were exiled increasingly escaped the country, more people were instead sent to labor camps.⁷⁰⁾ Yet, when summarizing the information on forced deportation since 2012, one can see deportation is still implemented as a controlling measure.

1. Forced Deportation due to Deviance

Numerous testimonies state that when authorities believed crimes were committed, public trials were carried out and perpetrators and their families were sentenced to forced deportation. However, punishments listed in North Korea's criminal law do not include forced deportation.⁷¹⁾ The crimes mentioned in testimonies stated that punishment would be enforced by forced deportation for economic crimes such as selling drugs, smuggling, and larceny, human trafficking, viewing pornography, and engaging in promiscuous activities. Article 199 (Smuggling) of the Criminal Law stipulates anyone who has engaged in smuggling will be punished by one year or less of labor training, and in serious cases, five years or up to ten a maximum of ten years and less correctional labor punishment.⁷²⁾

⁶⁹⁾ NKHR2015000133.

⁷⁰⁾ NKHR2016000060.

⁷¹⁾ North Korea's Criminal Law stipulates nine types of punishment: Death penalty, unlimited-term correctional labor punishment, limited-term correctional labor punishment, and labor training punishments, deprivation of the right to vote, confiscation of property, fine, deprivation of qualifications, suspension of qualifications are additional punishment. Criminal Law of the Democratic People's Republic of Korea (Amended 2012) Articles 27, 28.

⁷²⁾ Criminal Law of the Democratic People's Republic of Korea (Amended 2012) Article 199 (Smuggling).

Article 250 (Promiscuous acts) states many men and women engaging in promiscuous acts shall be sentenced to one year or less of labor training and in severe cases five years or less of reform through labor.⁷³⁾ Even though forced deportation is not mentioned in law, violators and their families are sentenced to exile after a trial. Statements reveal that deviators and their families are moved to exile the day after a sentence is handed.⁷⁴⁾ One escapee testified his/her entire family was deported in February 2012 because he/she engaged in drug dealing in Hyesan, Yanggang Province. In 2015, more than ten families were deported all together after being caught smuggling between Samjiyeon County, Yanggang Province, and China.⁷⁵⁾

There was another case where the deviator was executed by fire squad and the family was deported. In March 2014, the trade director of the North Hamgyeong Province People's Committee was executed for embezzling mass amounts of gold. Testimonies state that the family was seen being deported from Cheongjin to Gilju County.⁷⁶⁾ Forced deportation also applies to delinquent youths, shown in cases where they were deported along with their parents. In March 2013, three students in Bocheon County, Yanggang Province, were put on trial for cutting an electricity line and were deported with their parents. Testimonies claimed that each of the families were sent to Munam-ri, Hosan-ri, and OOO-ri respectively.⁷⁷⁾ One testifier who lived in Hyesan, Yanggang Province witnessed in 2012 young youths put on trial for watching

73) Criminal Law of the Democratic People's Republic of Korea (Amended 2012) Article 250 (Promiscuous acts).

74) NKHR2015000073.

75) NKHR2016000063.

76) NKHR2015000053.

77) NKHR2013000068.

pornography and engaging in promiscuous acts, and were deported to farm and mine areas along with their parents. The testifier added that in this case, one caveat was that it was unusual for the parents to be punished as well considering that they were all executive officials.⁷⁸⁾

〈Table III-1〉 Deportation of Deviators and their Families

Testimony Content	Testimony No.
In January 2012, the local SSD branch chief was publicly executed by fire squad for receiving bribes at the Yonggung-ri farm in front of Sambong Bunju-ro, Cheongnam-gu, South Pyeongan Province. The SSD chief, secretary of the Cheongnam-gu union, and factory director were deported for receiving bribes. Each were sent to areas around Maengjong-ri and Shimyang-ri, South Pyeongan Province.	NKHR2013000097
In February 2012, a neighbor who lived in Cheongjin, North Hamgyeong Province was deported after dealing drugs.	NKHR2012000222
In April 2012, A man who lived in Hyesan, Yanggang Province, was deported to Dongjung-ri, Gabsan County, Yanggang Province for dealing drugs.	NKHR2013000090
In March 2013, A neighbor was deported from Hyesan, Yanggang Province, to Samsu County, Yanggang Province for engaging in human trafficking.	NKHR2013000147
In Spring 2013, A Party member who lived in the harbor district of Cheongjin, North Hamgyeong Province was deported to the agricultural country side with his family for committing economic crime.	NKHR2014000010
In April 2015, A Korean-Chinese who lived in 60 <i>ban</i> , Osandeok-dong was caught acting as an intermediary for money transfer to South Korea and was deported to Eorang County. All four family members were deported.	NKHR2015000131

78) NKHR2016000038.

As demonstrated above, forced deportation is implemented as a punitive measure for deviances defined as crimes. Such measures are not sentenced in accordance with the character and severity of the violation, but broadly imposed based on discretion. Additionally, deporting family members along with the perpetrator indicates that North Korea still exercises pre-modern guilt by association.⁷⁹⁾ Modern law established the principle of individual criminal responsibility and forbids any legal institution of imposing disadvantage or liability because a person is somehow related to the criminal. Since North Korea does not have a legal clause banning guilt by association, revisionary measures need to be established to prevent innocent family members from falling victim to punishment.

2. Forced Deportation as a Means of Specific Regional Control

There have been testimonies that after Kim Jong-un took power, some residents have been driven out of specific regions irrelevant to deviance activities. Kim Jong-un is deporting lower class people to keep them from residing in specific regions where special class citizens live. This is part of North Korea's control policies. People have been consistently forcibly deported in the Pyongyang region since the regime was established.⁸⁰⁾ The Kim Jong-un regime is known to have forcibly deported ex-convicts and the unemployed, to curb Pyongyang's

⁷⁹⁾ The Constitution of the Republic of Korea stipulates that "No citizen shall suffer unfavorable treatment on account of an act not of his own doing but committed by a relative," prohibiting guilt by association. Constitution of the Republic of Korea Article 13.3.

⁸⁰⁾ Since the 1960s, North Korea has allegedly carried out a policy of forcibly deporting the disabled to the rural areas, except for disabled veterans and those of the elite class. Moreover, it appears that in 2006, measures have been taken to deport the mentally disabled from Pyongyang. "North Korea, forcibly deports the mentally disabled in Pyongyang," *DailyNK*, July 10, 2016. (In Korean)

population.⁸¹⁾ Such policies were implemented with the aim to not only expand benefits such as food rationing, but also to track down those dissatisfied with the regime and strengthen control. In particular, these forms of forced deportations appear to be carried out in Samjiyeon County, Yanggang Province as well. Because Kim Jong-un's hometown, Samjiyeon County, is also referred to as "Revolutionary ground" or "the 2nd Pyongyang," the forced deportation of political and economic ex-convicts and their families from Samjiyeon County has been assumed as principle, since in this region there are plenty of revolutionary sites and sites managers. Another seminal rationale is that Kim Jong-un has most frequently visited this region, thereby the composition of population and daily management are strictly controlled in the name of 'head security.'⁸²⁾ According to numerous testimonies, Samjiyeon County is where people with histories of labor sentences or above may not reside, and as such ex-convicts and their families are forcibly deported.⁸³⁾

In addition, there are testimonies that the North Korean authorities forcibly deport people through systematic investigations. According to a detailed testimony of one North Korean escapee, forced deportations resumed in mid-2013 in Samjiyeon County and incidences have rapidly increased ever since. Those subject to deportation are people with relatives in rural areas and whose parents are not originally from Samjiyeon County, people released from correctional labor camps, and people caught illegally crossing the border. According to testimonies, people released from correctional labor camps and their families were

81) "North Korea, Reducing the population in Pyongyang...forcibly deporting ex-convicts," *YTN*, September 2, 2017. (In Korean)

82) KINU Expert advisory meeting, October 24, 2017.

83) NKHR2014000081; NKHR2016000114.

deported first, and people from rural areas were all immediately deported upon exposure through investigations. There have been testimonies that these projects are carried out by the Police Office with cooperation from *Imminban*, and that those subject to deportation are caught unaware and carried off in trucks.⁸⁴⁾

〈Table III-2〉 Forced Deportation as a Means of Specific Regional Control

Testimony Content	Testimony No.
<p>In 2013, the entire family was deported from Pyongyang to Iwon County, South Hamgyeong Province. I heard the father had committed a grave fault. The family consisted of the two parents and two daughters, four members in total. The entire family spent 17 years in the Prison Camps (<i>kyohwaso</i>) and was forcibly deported afterwards.</p>	<p>NKHR2015000052</p>
<p>In April 2014, Kim OO, a farmer in <i>Imminban</i> in Samjiyeon County, Yanggang Province, was deported to Paegam County on the basis that he had served a sentence at the labor camp twice. His wife and daughter were also deported.</p>	<p>NKHR2015000002</p>

As such, it appears that North Korea has opted for forced deportations as a means of strengthening the regime's control in specific regions. Discriminating and forcing people from their homes on the bases that they are ex-convicts, disabled people, or from lowly backgrounds, is a grave infringement of people's right to housing.

84) NKHR2014000120.

3. Forced Deportation of the Family Members of Escapees

Since 2012, numerous cases have been compiled through testimonies where family members have been forcibly deported when one family member goes missing and is presumed to have gone to South Korea. The SSD investigates missing people focusing on the border area to block additional escapees by figuring out who their family members are. The remaining family members of the missing person are subject to intensive investigation into whether the missing person's destination was China or South Korea, and about the timing and reasons the person went missing. Because defecting is a political matter in North Korea, fearing punishment, people exhaust every means possible and try their best to remain as 'family members of missing persons' instead of 'family members of escapees.'⁸⁵⁾ In fact, there have been testimonies that some remaining family members decide to escape for fear of being forcibly deported upon it being found out that a family member escaped from North Korea. One North Korean escapee witnessed his brother and family being forcibly deported in April 2011 after the fact that his in-laws had been deported had been exposed. His brother and family were left to their own devices in a farming village on the mountain top of Poongseo County, Yanggang Province, and in the end the whole family escaped to Hyesan. Afterwards, escaping the watch of the State Security Department, the family built a shed in the mountain valley, and was seen living a devastated life suffering from the cold and from food shortage. Afterwards, the witness himself says he decided to escape in fear of being forcibly deported when his daughter's escape to South Korea was exposed.⁸⁶⁾

⁸⁵⁾ "North Korea's border region, re-investigation of missing persons," *Radio Free Asia*, August 30, 2016. (In Korean)

⁸⁶⁾ NKHR2015000133.

According to testimonies, there appears to be a separate region to which family members of escapees are deported. These regions are primarily located in North Hamgyeong Province and Yanggang Province and North Korean escapees from these regions have been forcibly deported to rural hinterland. In the case of Yanggang Province, North Korean escapees from 7 sub-regions out of 12 in Yanggang Province, which are located in border areas, have been forcibly deported to 5 inner sub-regions in Yanggang Province. In this regard, 5 inner sub-regions in Yanggang Province have already been overpopulated.⁸⁷⁾ In addition, it is presumed that immediate family members are subject to deportation, but there have been testimonies that relatives have also been forcibly deported as well. In some cases, those subject to deportation arrived at the destination of deportation but were sent back to their place of residence because the area was overcrowded.⁸⁸⁾

〈Table III-3〉 Forced Deportation of the Family Members of Escapees

Testimony Content	Testimony No.
In March 2013, a neighbor who lived in Hyesan, Yanggang Province was deported because he was a family member of an escapee	NKHR2012000244
In June 2012, a neighboring family living in Hyesan, Yanggang Province was deported from Chun-dong, Hyesan to Sangsu County. This family returned home.	NKHR2013000182
In January 2013, a neighboring escapee's family was deported from Hoeryeong, North Hamgyeong Province and returned. There was a special order from the central authority (Kim Jong-un) to deport the remaining family members of the escapee.	NHKR2015000035

87) KINU Expert advisory meeting, October 24, 2017.

88) NHKR2015000035.

Testimony Content	Testimony No.
In August 2013, brother-in-law who worked as a miner in Hyesan, Yanggang Province and his family were deported. He was caught by a state security officer talking on the phone to his daughter in South Korea and was deported from Hyetan-dong, Hyesan to Poongseo County.	NKHR2015000130

Forced deportation of remaining family members of escapees seems to have been occurring extensively for a long period of time. While some testify that Kim Jong-un gave a special order after the year 2013, others testify that such measures have decreased as of late. Compared to other types of forced deportations, it appears that the number of deportation cases of family members of escapees is in decline. This however is not evidence that the treatment of escapee's family members has improved. Presumably, the difficulties in securing residential areas to accommodate the increasing number of escapee families and additional defection of remaining family members is why the North Korean regime is not implementing forced deportation.⁸⁹⁾

4. Other Forced Deportations

Aside from those mentioned above, there are still instances where certain figures or people related to certain events and their family members and relatives are forcibly deported. Compared to other cases, the scope of those subject to deportation in these cases is broader. Piecing together testimonies from 2012 to 2016, it can be concluded that there have been two forced deportation cases of certain figures or

89) KINU Expert advisory meeting, August 16, 2017.

people related to certain events. First was the ‘Dongkkamo’ incident in July 2012, surrounding Jeon Young Cheol, an escapee who re-entered North Korea. The second was the execution of Jang Sung-taek in North Korea in December 2013. The ‘Dongkkamo’ incident refers to an event where North Korean escapee Jeon Young Cheol declared in a press conference on July 19, 2012, that he was arrested attempting to destroy a statue of Kim Il-sung in the borderland, abetted by ‘Dongkkamo.’ During this incident, North Korea claimed that this was an attempt by a dissident group, South Korean intelligence agencies, and the United States to shake the Kim Jong-un regime and incite internal chaos by destroying Kim Il-sung statues.⁹⁰⁾ Because of this incident, Jeon Young Cheol’s parents who lived in Hoeryeong, North Hamgyeong Province in the urban area, were forcibly deported to the rural area of Sinheung-ri.⁹¹⁾ Moreover, there have been testimonies that Jeon Young Cheol’s brother and immediate family members were forcibly deported from Gangan-dong, Hoeryeong, North Hamgyeong Province to Wonsan, Gangwon Province.⁹²⁾ Furthermore, witnesses have testified that six families confirmed of assisting Jeon Young Cheol were also forcibly deported.⁹³⁾

In relation to the execution of Jang Sung-taek, seven families were forcibly deported from Pyongyang and placed in Kowon mine from late 2013 to early 2014.⁹⁴⁾ Furthermore, witnesses have testified that a neighboring family of Jang Sung-taek was forcibly deported to Yonsa County, North Hamgyeong Province, for being associated with Jang Sung-taek.⁹⁵⁾ One North Korean escapee from Cheolsan County, North

90) “Dongkkamo declares terror, both Koreas battle for truth,” *Yonhap* News, July 20, 2012. (In Korean)

91) NKHR2014000017.

92) NHKR2015000025.

93) NKHR2015000010.

94) NKHR2015000051.

Pyeongan Province, stated that in North Korea, Cheolsan County is referred to as the deportation base. According to testimonies, farming conditions are extremely poor in this area, and numerous people related to Jang Sung-taek and Park Nam-ki were deported to and have resided in this region.⁹⁶⁾ As such, families, relatives, and those associated with certain incidents or figures are still forcibly deported in North Korea. It is shown that the scope of people subject to deportation for incidents and figures with great political clout are much broader than the scope applied for deviant actors or deportation of remaining family members. In other words, the scope of guilt-by-association has been expanded. Such measures, aimed to strengthen the authorities' control by instilling fear against antirevolutionary movements, not only violate the human rights of those deported but also function as mechanisms to pressure its people.

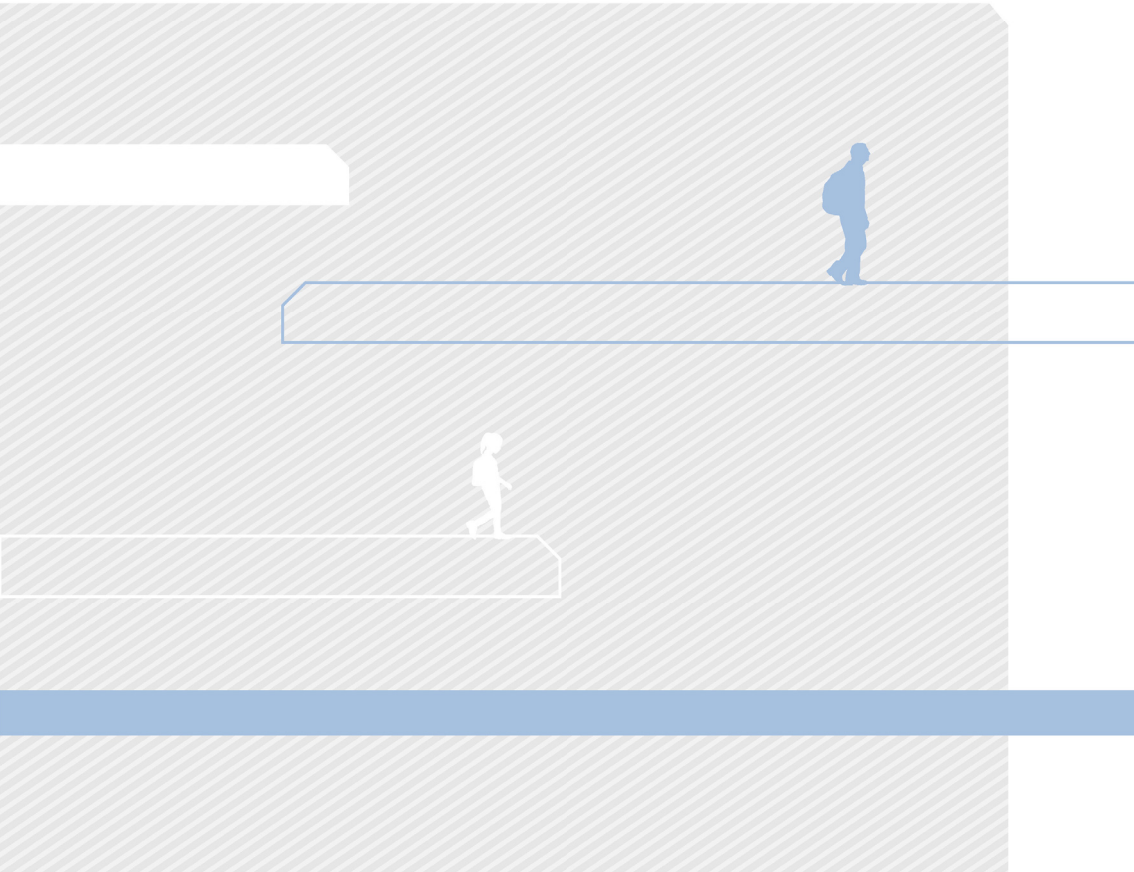
⋮ ⁹⁵⁾ NKHR2016000188.

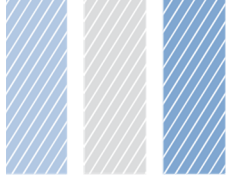
⋮ ⁹⁶⁾ NKHR2016000190.



IV

Restricted Border Access and Prevention of Free Leave





IV. Restricted Border Access and Prevention of Free Leave

Article 12.2 of the ICCPR stipulates that “everyone shall be free to leave any country, including his own.” The UN Human Rights Committee interpretation of this provision is that it includes the obligation of a country to appropriately provide an individual who wishes to leave his or her home country with passports and any other necessary documents.⁹⁷⁾ In accordance with its immigration laws, the North Korean authorities regulate border access by North Korean residents and foreigners. According to the Democratic People’s Republic of Korea Immigration Law (hereinafter Immigration Law), revised and supplemented in 2013, North Korean residents may access border areas by being issued a passport and a visa, or ‘border area immigration documents’ for government affairs or private matters. In theory, North Korean citizens can apply for and get issued such immigration documents. However, taking into consideration the fact that most North Koreans rarely depart from their hometowns, let alone cross the border throughout their life time, it is extremely rare that North Korean people are issued these immigration documents. In this chapter, we will explore North Korea’s border control case from largely three perspectives. First, the North Korean regime is cutting off immigration

∴ ⁹⁷⁾ UN HRC, General Comment, No. 27 (1999), para. 9.

at the source by restricting issuance of documents needed by North Korean people for immigration. Second, the regime is tracking down illegal immigrants by strengthening immigration checks. Third, the regime is preventing border-crossing through draconian punishments. In the end, strengthening border access control leads to larger sums in bribery for passport issuance and increased broker fees for crossing the border.

1. Strict Control of Issuing Immigration Documents

1) Passports

The reasons for North Korean people going abroad can largely be divided into either extended stay for employment or government affairs, or short term stay for vacation or visit of relatives. Exceptional cases such as diplomats, foreign workers, and international students can receive a passport for an extended stay abroad. According to Article 11 of the Immigration Law, the Ministry of Foreign Affairs and the immigration project organization issues passports for government affairs and private matters, respectively (refer to Table IV-1). However, most North Koreans never have the opportunity to see what a passport looks like and many allegedly do not even know about the concept of a passport.⁹⁸⁾

∴ 98) KINU Expert advisory meeting, August 16, 2017.

〈Table IV-1〉 North Korea's Immigration Law Regulations

(Amended and Supplemented in 2013)

<p>Article 11 Application for Passport and Visa Issuance</p>	<p>The organization deploying a citizen for state affairs applies for the citizen's passport and visa to the Ministry of Foreign Affairs. Individuals traveling for personal matters shall apply directly for passports and visas to the immigration project organization of the residential area in question.</p>
<p>Article 13 Application for Border Area Immigration Document Issuance</p>	<p>The organization deploying a citizen for state affairs applies for the citizen's border area immigration documents to the immigration project organization or related agency. Individuals traveling for personal matters shall apply directly for border area immigration documents to the immigration project organization of the residential area in question.</p>

The SSD oversees the issuing of passports. The fact that the SSD, the secret police and counter-intelligence agency of North Korea, is in charge of people's immigration demonstrates that immigration in North Korea falls under strict control. Once a passport application is submitted to an officer at the foreign affairs division of the SSD in the residential area, the application undergoes screening and approval from the SSD in Pyongyang, and the passport is made. This passport is sent to the embassy (for example, China, etc.) and a visa is issued. Normally, the person traveling aboard directly applies for a visa at the appropriate embassy, but the North Korean authorities act on behalf of the traveler, and there is no direct contact between the traveler and the embassy. Once a visa is issued, the passport is sent to the officer of the foreign affairs division of the SSD in the residential area and handed over to the applicant. What is unusual is that in North Korea, a departure visa is needed when leaving the country. Normally, one can leave a country with a passport.

However, North Koreans must be issued an exit visa that allows him or her to leave the country from the authorities. For example, for a North Korean to visit China, he or she must have both an entry visa issued by the Chinese government and an exit visa issued by the North Korean authorities. This is because in North Korea, controlling their own people from leaving the country is more important than restricting foreigners from entering the country.

Such strict departure control can also be seen when foreign workers are deployed overseas. Foreign workers are selected after being rigorously verified their ideologies through conversations with the SSD and central authorities, and must receive awareness training for a certain period of time before departure.⁹⁹⁾ In addition, only those with families and children are selected as foreign workers to prevent the worker from escaping.¹⁰⁰⁾ This act of taking remaining family members as hostage to force foreign workers to return home is a serious violation of the freedom of movement. According to numerous testimonies, foreign workers may only possess passports with the crossing of borders, and the authorities collect the passport once the workers go through immigration.¹⁰¹⁾

There have also been a number of testimonies stating that there is an age restriction on passport issuance in North Korea. Furthermore, according to internal regulations of the foreign affairs division of the SSD, passports are only issued to citizens aged 50 and above.¹⁰²⁾ However, looking at testimonies of escapees in aggregate, this regulation does not

99) NKHR2013000196: North Korean escapee OOO, July 31, 2017, Interviewed in Seoul.

100) NKHR2014000112: NKHR2014000063.

101) Sang Sin Lee, Gyeong-Seob Oh, and Ye Joon Rim, *Study on the Situation of North Korean Laborers Abroad* (Seoul: KINU, 2017), p. 91. (In Korean)

102) NKHR2014000044: NKHR2015000043: NKHR2014000080.

seem to be upheld. Most witnesses who said they had a passport issued in the last 5 years were in their 30s and 40s.¹⁰³⁾ One escapee testified to bribing the SSD officer in charge for a passport at the age of 35.¹⁰⁴⁾ As such, bribing SSD officers is inevitable because the passport issuance qualifications and processes are excessively complicated. According to one escapee, 3,000 yuan was paid to an officer for a passport to visit ethnic Korean relatives living in China in 2012.¹⁰⁵⁾ One escapee continuously paid a bribe to an officer for three consecutive years to get a passport.¹⁰⁶⁾ It is safe to say that the amount of a bribe is proportionate to the speed of passport issuance and the capabilities of the officer in charge.

2) Border Area Immigration Documents

When residents in the border area go abroad (China) to visit relatives or to do small-scale business, they need to receive a ‘border area immigration document’ to cross the border. According to Article 13 of the Immigration Law, this immigration document is issued on application to the immigration project organization (refer to table IV-1). The immigration project organization refers to the SSD as it does when issuing passports. Border area immigration documents are often called border passes, river-crossing passes, among others, and are issued by the city or province’s State Security Department.¹⁰⁷⁾ The fact that security departments in the city and provincial level issue these documents instead of the central security

¹⁰³⁾ NKHR2016000185; NKHR2015000015; NKHR2015000037; NKHR2015000070; NKHR2014000165; NKHR2013000167; NKHR2012000003; NKHR2012000103.

¹⁰⁴⁾ NKHR2015000070.

¹⁰⁵⁾ NKHR2014000165.

¹⁰⁶⁾ NKHR2012000103

¹⁰⁷⁾ NKHR2015000043; NKHR2012000091.

department as with passport issuances, discloses that obtaining border area immigration document issuances seem relatively easier than passport issuances. When North Koreans in the border area go to China to visit relatives, they must go through the procedures of ‘invitation notification.’ Relatives in China must fill out an invitation form and submit it to the authorities, upon which border passes are issued after checking the forms. However, forging invitation forms and bribing authorities to circumvent these controls is a frequent occurrence.¹⁰⁸⁾ Those in frontier trade get issued a border pass called a ‘River-Crossing Pass,’ which can be issued without an invitation form from China.¹⁰⁹⁾

According to testimonies, even when legal processes are followed in applying for border area immigration documents, most often than not it is difficult to get these documents without paying a bribe. According to one escapee, a river-crossing pass was issued four years later in 2011 only after paying one million won in North Korean currency, when the application was submitted to the foreign affairs office of the county SSD in 2007.¹¹⁰⁾ Issuance of border area immigration documents appears to have become near impossible since border controls have been strengthened since Kim Jong-un came to power. One escapee testified that up until 2012 border passes could be issued through bribes even without relatives in China, but since 2013 bribes do not even work.¹¹¹⁾ On the other hand, recent orders to turn a blind eye toward smuggling activities across borders without river-crossing passes have been issued to the border guards.¹¹²⁾ This

108) NKHR2014000044; KINU Expert advisory meeting, August 16, 2017.

109) A ‘river-crossing pass’ is allegedly a phrase used in China to indicate immigration documents. KINU Expert advisory meeting, August 16, 2017.

110) NKHR2012000062.

111) NKHR2014000044.

112) “North Korea, discrete orders to border guards to ‘not regulate smugglers’,” *Radio Free Asia*, August 25, 2017. (In Korean)

appears to be a way of increasing foreign currency inflow into North Korea amidst the economic pressure the North Korean regime is feeling from the recent sanctions that have been strengthened. To summarize, passports are only issued in a limited manner in special circumstances to diplomats, foreign workers, and international students, and are very rarely issued to the general public. Border area immigration documents are issued to those residing in the border area wishing to visit relatives or conduct small-scale business abroad and depending on international circumstances and the situation of the regime, it seems that control is increased and decreased through discretionary measures.

2. Strengthened Immigration Inspection

When the Immigration Law was amended in 2013, a separate chapter on immigration inspection was included. Before the legislation was amended the only provision about immigration checks was that “citizens must receive a check of the relevant immigration certificate before arrival and departure. Immigration inspections are to be carried out by the immigration inspection agency at the border passage point” (2012 prior law Article 15). However, upon revision in 2013, the Immigration Law has been expanded to include a total of 12 articles and 29 paragraphs on immigration inspection. First, Article 30 stipulates the obligation of citizens, foreigners, and transportation vehicles to receive inspection at the border passage point, and Article 31 enumerates in detail the duties and authorities of the immigration inspection agency. Moreover, Article 34 prohibits the possession of “contraband items that can threaten the nation’s safety and social order, classified documents and data.”

In particular, control over transportation vehicles has been strengthened. Before the Immigration Law was amended, it did not have separate regulations concerning the transportation means used for arrival and departure. However, after amendment, according to Article 35, transportation agencies must give prior notice to the immigration inspection agency about the immigration data of the transportation vehicles. Furthermore, in accordance with Articles 36 and 41, the person in charge of the transportation vehicle shall not allow persons or luggage on the vehicle without the authorization of the immigration inspection agency, and shall bear legal responsibility if the person in charge allows a person banned from entering or leaving the country to board the vehicle. Moreover, according to Article 37, citizens and foreigners crossing the border by means of driving must receive an inspection of their automobile border pass issued by the immigration agency or a similar agency in the counterpart country.

Lastly, control of crewmen of ships passing through the border has been strengthened. According to Article 38, foreign vessels must be inspected by the immigration inspection agency before entering the trade port, and shall not deviate from the designated route. Article 39 states that foreign nationality crewmen must apply to come ashore and receive authorization from the immigration inspection agency before leaving the boat that made port in the trade harbor. Article 40 states that when citizens or foreigners board or leave the boat, and when they come into contact with vessels of foreign nationalities, inspection and authorization by the immigration inspection agency are needed. Immigration inspection of citizens and foreigners arriving at and departing from the border had been carried out before the Immigration Law had been amended.

However, the detailed list of duties and authorities of the immigration inspection agency, and stipulated scope and subject of such activities in the amended version can be interpreted as an effort to strengthen the evidential basis of punishment for illegal border crossings. This shows that since Kim Jong-un took power, border control has been strengthened not only as a matter of practice, but also at the legal level.

3. Strengthened Control and Punishment of Illegal Border Crossings

The increased number of illegal border crossings is only natural because as aforementioned, receiving immigration documents through valid means is practically impossible. The number of escapees rapidly increased starting from the early 2000s and the rise continued into 2011 when Kim Jong-un's came to power. According to Article 221(Illegal Border Crossing Offense) of North Korea's Criminal Law, illegal border crossing offenses are penalized with a maximum one-year short-term labor training punishment, and for serious cases a maximum five-year correctional labor punishment is given (refer to Table IV-2). With the sudden increase in the number of escapees in the 2000s, those crossing the border simply to make a living instead of attempting to escape to South Korea, were given far lighter sentences on par with short-term labor training punishments for their offenses. However, since Kim Jong-un came to power, punishment has been strengthened and correctional labor punishments are imposed regardless of the purpose or frequency of illegal border crossings.¹¹³⁾ Furthermore, as of August 2015, illegal border crossing offenses have been newly categorized as crimes where amnesty does not apply.¹¹⁴⁾

∴ ¹¹³⁾ NKHR2015000092; NKHR2015000084; KINU Expert advisory meeting, August 16, 2017.

According to some testimonies, as of late, illegally crossing the border is considered a crime against the state and the people, and as such heavier punishments are administered.¹¹⁴⁾ Crimes against the state and the people (Criminal Law Article 63) stipulates that “a minimum five-year correctional labor punishment shall be imposed for crimes against the state and the people such as betraying the home country and escaping to a different state, surrendering, becoming a turncoat, or handing over classified information,” and “for serious offenses unlimited-term correctional labor punishment, death penalty, or confiscation of property is imposed” (refer to table IV-2). Taken together, it appears that since Kim Jong-un has taken power, escaping has been categorized as a serious offense with no room for extenuating circumstances.

〈Table IV-2〉 North Korea’s Punishment Regulations for Illegal Border Crossings
(Amended and Supplemented in 2012)

<p>Article 221 Illegal Border Crossing Offense</p>	<p>Persons who illegally cross the border shall be penalized with a maximum one-year short-term labor training punishment. If circumstances are serious, a maximum five-year correctional labor punishment shall be imposed.</p>
<p>Article 63 Crimes Against the State and the People</p>	<p>A minimum five-year correctional labor punishment shall be imposed for crimes against the state and the people such as betraying the home country and escaping to a different state, surrendering, becoming a turncoat, or handing over classified information. For serious offenses, unlimited-term correctional labor punishment, death penalty, or confiscation of property is imposed.</p>

114) KINU, *White Paper on Human Rights in North Korea 2017*(Seoul: KINU, 2017), p. 130.

115) KINU Expert advisory meeting, August 16, 2017.

Evidence of strengthened border control since Kim Jong-un came to power can be found in various escapee control measures. In November 2010, directly after Kim Jong-un was confirmed as the official successor, he ordered to “blow the horn at the border as a test run,” and deployed a security inspection group comprised of officers from the SSD, the security department command, and central authority, to the border area.¹¹⁶⁾ Immediately following the death of Kim Jong-il in late 2011, Kim Jong-un defined defecting as a war-time crime and gave the order to “exterminate three generations” of a person caught attempting to escape. In 2014, an order to “shoot to kill anyone who does not stop and defies orders when caught attempting to defect” was given to the border guards.

In addition, the physical barrier along the border area has been reinforced. There have been testimonies that starting from October 2010, concrete pillars were erected every 10 meters along the Tumen River and that barbed wires are being installed in between the pillars.¹¹⁷⁾ Moreover, in January 2014, a notification was given at a security department lecture to the entire *Imminban* in Hoeryeong, North Hamgyeong Province, that houses in the area would be demolished to make room for laying mines, and middle school students were given an order to each bring five standard sized nail boards to be used to seal the border.¹¹⁸⁾ There have also been testimonies that high-tension wire constructions have started in 2015.¹¹⁹⁾ As more and more people escaped by bribing the border guards, Kim Jong-un transferred authority from the border guards of the Ministry of the People’s Armed Forces to the

116) Kyu-Chang Lee, “North Korea’s Harsher Surveillance and Punishment of Defectors and Our Response,” (KINU Online Series CO 11-30, November 10, 2011). (In Korean)

117) NKHR2016000126.

118) NKHR2014000050.

119) KINU, *White Paper on Human Rights in North Korea 2017*, p.130.

SSD to strengthen internal crackdowns.¹²⁰⁾ In addition, orders were given to the border guards to first receive bribes when offered by those attempting to escape and act as if they are trying to help, and apprehend the escapees when they appeared on site.¹²¹⁾ Unprecedented offers were even made that border guards who arrest people trying to defect will be acceded to the party and sent to college.¹²²⁾

North Korean escapees who do manage to cross the border despite all struggles face the threat of being caught by the Chinese authorities and being forcibly repatriated. In July of this year, 17 escapees were apprehended in Kunming, Yunnan Province in China. It has been alleged that five family members committed suicide by taking potassium cyanide they had with them, for fear of execution or cruel treatment back in North Korea.¹²³⁾ Some commentators note that China's recent move to double down on tracking escapees seems to be in retaliation of THAAD deployment, thereby straining South Korea-China relations.¹²⁴⁾ As exemplified, escapees' safety rides on the surrounding circumstances such as relations between South Korea and China, and North Korea and China. Forcible repatriation of North Korean escapees is as serious a violation of the freedom of movement as closing off border access.

120) NKHR2013000133.

121) NKHR2014000050.

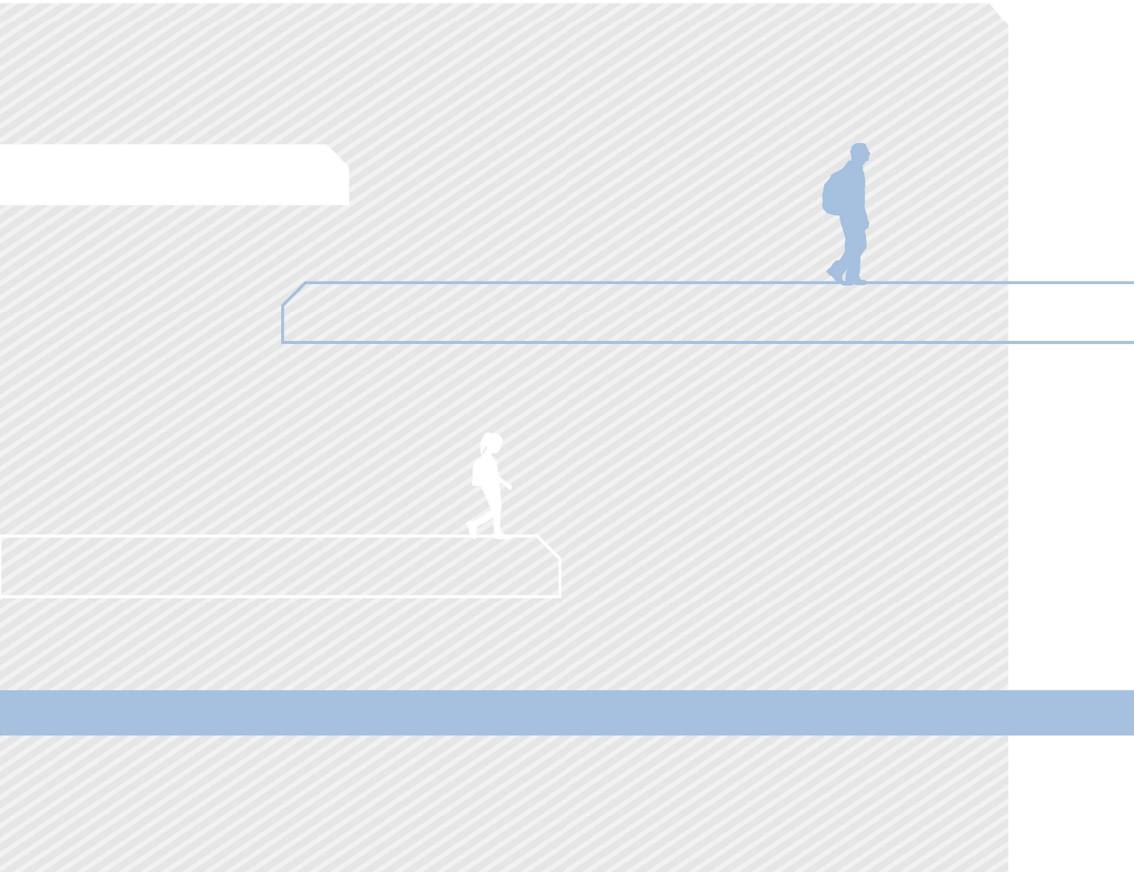
122) Above testimony.

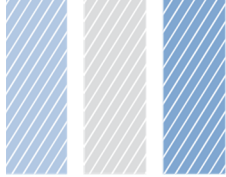
123) "Five-member family from North Korea commits suicide when caught in midst of attempting escape to South Korea," *Radio Free Asia*, July 21, 2017. (In Korean)

124) "[Journalist Joo Seong-ha's Inbetween Seoul and Pyongyang] People dying due to THAAD revenge," *Donga Ilbo*, August 17, 2017. (In Korean)



Conclusion





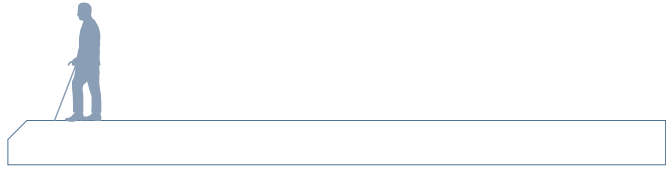
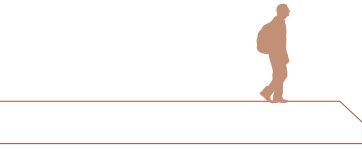
V. Conclusion

This study has reviewed the situation of North Koreans' freedom of movement. Freedom of movement and the rights thereto seem to be largely restricted by various legal and social control measures. However, the introduction of the *jangmadang* economy within North Korea and the corruption in the system causes lapses in the control system. Nevertheless, the North Korean regime restricts not only movement between regions within North Korea, but also movement across borders through various control measures. The North Korean authorities are restricting free movement of the North Korean people through various institutional means such as the travel permit policy, checkpoint inspections, forced deportation, and strengthened border control. The restriction of free movement can be explained through the larger picture of social control. In other words, the North Korean regime is wary of the spread of antisocialist movements, capitalism, and liberalism through the improvement of the rights of the people that comes from increased free movement. Furthermore, the regime is also guarding against changes in people's consciousness due to open societies.

Kim Jong-un has consistently restricted the people's freedom of movement since he came to power, and this trend continues to this day. The North Korean people, however, are more active in their response to the authorities' increased control. Despite the frequent crackdowns,

room inspections, house inspections, and other forms of violations against freedom of movement and housing, the North Korean people are using various means to secure their freedom of movement. Testimonies about moving to make a living, moving to visit relatives, moving in search of better opportunities, and other movements for different reasons have been recorded. The North Korean people's yearning for freedom cannot be contained forever. In particular, curiosity about a new world and the desire to move is such a natural reaction in human beings that no one can completely control.

Further research into the realities surrounding North Koreans' freedom of movement is desperately needed. More studies need to be conducted particularly on the current state of movement for people residing in the inland areas of North Korea rather than the border areas. Although the North Korean regime's control over its people cannot be rolled back overnight, forced deportation, and other active violations of human rights can be stopped at the national level. The international community, starting with South Korea, should work ceaselessly to secure freedom of movement for the North Korean people, gather more testimonies that specifically point to forced deportation and other human rights violations. At the same time, it is important to maintain a firm stance concerning human rights infringements countless escapees experience after being forcibly repatriated to North Korea.



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