

IMMIGRATION ISSUES IN KOREA

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When it comes to migration issues in the Republic of Korea, South Korea or Korea; it can be classified into two major parts. One is that there is Korean emigration - what we call “Korean overseas” or “overseas Korean issues.” And, on the other hand, there is foreign immigration into Korea, both illegal and legal migration.

Let me start with the Korean emigration. The number of overseas Koreans has reached over 6.1 million. But given that scope of Korean nationals overseas, there has been an increased necessity for *decisive* law from the Korean government, which just began to talk about overseas Korean issues since 1997.

If I briefly talk about the history of overseas Koreans, the Koreans first started to go abroad about 140-150 years ago. The history of Korean emigration can be divided into four waves of mass emigration to the following countries or regions, respectively: Manchuria; Yonhaeju, the Maritime Provinces of the Russian Far East; Japan; and the United States. The first wave of emigrants to Manchuria started in the late 18th century with the objective of seeking security from the domestic political unrest in Josun Dynasty, which is Korea’s last dynasty before Japan’s colonization of Korea. Later on, emigration increased as Manchuria became the base for the anti-Japanese resistance movements that aimed to achieve national independence for the Korean nation. Also, cultivation of barren land in Manchuria was another important reason to immigrate to those areas. So both political and economic reasons pushed the ancient Korean people to go to Manchuria.

Immigration to Yonhaeju began in 1863 because of the crop failure at home. They also participated in the anti-Japanese resistance movement after 1905 by establishing national groups and schools and also by recruiting national troops in the Yonhaeju area. But they were forcibly moved to Central Asia in 1937 by Stalin’s policy. But after the end of the Cold War, because of the manifestation of ethnic conflicts and civil war in Central Asia, Koreans moved back to the Yonhaeju area. Now, most of those people, called “*koryo*” live in the Yonhaeju area.

The third wave was the history of Korean immigrants in Japan, which began in the late 18th century, when a handful of Korean intellectuals went to Japan for “modern study.” But during Japanese colonial law, some Koreans went to Japan looking for economic opportunities while a majority of them became forced laborers by the Japanese imperial power. As I mentioned this morning, by 1942 nearly 2 million Koreans were living in Japan, but after Japan was defeated in the Second World War, more than half of them came back to Korea, so the number in Japan fell to 600,000. As of 2003, Japan officially recognized 470,000 Koreans *zainichi* and then many of them started to get naturalized to become Japanese citizens since Japan changed their law.

The fourth wave of Korean emigration was to the United States, which started in the early 20th century, when immigrants, mostly composed of male farmers went to work

in sugar cane plantations in Hawaii and at railroad construction sites. In addition, some Koreans also went to Mexico and Cuba. These laborers, especially those working in Mexico and Cuba were exploited for their labor receiving negligible wages in return for work—close to the status of slavery. Korean immigrants in the US also contributed to the Japanese resistance movement by organizing patriotic groups. One of the important figures was Syngman Rhee, who was the first president of the Republic of Korea.

Another important aspect of Korean emigration is related to the adoption of children from Korea. Between 1959 and 2002 a total of 150,000 Korean children were adopted by citizens of the United States and European countries.

I have older tables with a bunch of statistics from the 5th page. So, in the interest of time, I will skip all those statistics so you could have a look.

Among overseas Koreans from the four major waves of Korean emigration, I would say that Korean Chinese in Yanbian have the strongest ethnic identity. According to one survey, a number of those Koreans still observe the major Korean national holidays, such as Korean Thanksgiving. About 85% of Chinese Koreans, called “*josunjok*”, observe those national holidays, while 65% of the *koryo*, 46% of the *zainichi*, and only 17% of Korean Americans observe the Korean national holidays.

In short, the history of Korean emigration started as a means of surviving the difficult living conditions in Josun Dynasty, or to contribute to anti-Japanese movements. Korean emigration has gradually changed in character; it is now stimulated by the yearning for a better quality of life and education. And, as shown in my handout, the number of Koreans going overseas has begun to increase because younger parents want to take their children to go to the United States or other Anglophone countries so that they can pick up the English language and receive a more advanced education. One interesting phenomenon here is that the number of Koreans living in Canada was 170,000 in 2003. This represented an almost 21% increase from the previous years. In the wake of the 9/11 terrorist attacks, it is very difficult to go to the United States to get a permanent or a student visa status, so they instead choose to go to Canada so that they can stay with their children..

Concerning the development of Korean immigration policy, there was practically no standard Korean policy toward Korean immigrants during the period of the First and Second Republics under Syngman Rhee and Chang Myon, respectively. Because the governments were preoccupied with the need to establish social stability in the post-colonial Korean society, they simply didn't have any time, energy, or money to consider overseas Koreans as Korean nationals. Almost the same is true for the Third Republic under Park Chung Hee. Many Korean Japanese wished to come back to South Korea, but since many of the *zainichi* were regarded as pro-North Korean, Park Chung Hee was quite harsh on those Korean Japanese. This also aggravated the situation of those Koreans living in Japan, who already suffered Japan's discriminatory policies.

The post-Cold War environment, in which ideological prejudices were no longer a major obstacle in Korea, facilitated the good will and support for South Korean public and policy decision makers toward overseas Koreans. During the Kim Young Sam period, as part of globalization policy, they started to take into consideration the situation of overseas Koreans. But it was not until March 1997 under the Kim Dae Jung administration, and the registration of the Overseas Korean Foundation Bureau and subsequent establishment of the Overseas Korean Foundation under the auspices of the

Korean Ministry of the Foreign Affairs and Trade, that the government began to address the problems and needs of overseas Koreans. But still, there is a long way to go. The Korean government should do more because overseas Korean communities wish to see a Department of Overseas Koreans within the Korean government. But it is very hard for South Korean Government to establish such a department because they are more interested in, or more concerned about diplomatic troubles with respective countries.

For example, China is very sensitive about the possible establishment of a Department of Overseas Koreans because they are concerned that such a department may include in its responsibility the status of the “*josunjok*”, the Korean Chinese, as Korean nationals. Non-governmental organizations and the academic community have long claimed that the Korean Ministry of Foreign Affairs should not be in charge of government policy toward overseas Koreans because the ministry has only concentrated on minimizing diplomatic conflicts with other countries rather than dealing with the issues that the ethnic Koreans face. It is also very regrettable that there is no single government organization representing the interests of the people who already make up about 11% of the entire population of South Korea.

In contrast, out of the 2,000 Korean language schools located in 96 countries around the world, 1,100 are found in North America. It is apparent, that overseas Koreans in the United States have a strong interest in teaching their children the Korean language, while the Korean government is still negligent toward that need.

Turning to foreign immigration into Korea, at the end of 2004 foreign residents in South Korea were estimated to number about 751,000, including 541,000 legal immigrants and 210,000 illegal immigrants. We also have some problems with refugee issues and victims of human trafficking and other foreigners. With regard to trends in foreign immigration to North Korea, the most prominent and pressing issue is how the government will deal with the influx of foreign workers. Let me focus only on foreign workers in Korea.

Korea is particularly concerned about the diminishing population of native Koreans. They say that in 15 years more than half of the working population in Korea will be foreign workers rather than native Koreans. Hence this influx of foreign workers is quite a big and growing social and security concern to South Korea.

Concerning the state of foreign workers in South Korea, for a long period of time Korea has been an even more homogeneous country than Japan and responded with indifference to the needs and interests of foreign migrants residing in Korea. In 1992 there were only a few thousand foreigners who entered South Korea. But after the Olympics and also particularly after the World Cup soccer games, more and more foreign workers have been interested in coming to Korea in search of jobs. Particularly, Korean Chinese and Chinese themselves want to come to Korea, as well as some Russians, in search of the ‘Korean Dream,’ to get a better life. Korea has slowly changed its perspectives, accepting foreigners as factory operations face labor shortages. Korea now is facing labor shortages because not many Koreans want to work in the 3D industries. Many foreign workers come from China, the Philippines, Vietnam, Indonesia, Bangladesh, Myanmar, Sri Lanka, Nepal, and Pakistan. They are initially permitted to stay for 1 year for a salary of about \$2 per hour, which is lower than what illegal workers earn, which is from \$3 to \$4 per hour.

Over the past few years, in an attempt to attract foreigners to Korea, the Korean government and many large businesses have offered incentives to foreign investors and introduced industrial training programs to foreign workers. Industrial trainees only get \$2 per hour and they have no medical insurance. So they prefer to become illegal workers so that they can at least double their income to \$4 per hour. Neither illegal immigrants nor industrial trainees can get a medical insurance nor any other social benefits.

As for illegal foreigners, some of them usually enter Korea on a tourist visa or visitor's visa and find employment within a week or two, while some of them come as trainees but, because of the adverse working conditions, desert their jobs and then become illegal workers. However, becoming illegal workers is not a wise decision either. Most illegal workers are employed or re-employed and poorly kept as 5-to-10 workers in metropolitan areas. There are human rights abuses and violations of employment contracts and sexual abuses of female workers. For instance, illegal foreign workers can rarely receive a compensation for the injuries they suffer. If they complain, their employers report them to the government; so if there are some problems, they would have to be forcefully repatriated to their host countries. So they have to remain silent.

Foreign women are able to legally marry Korean men and become naturalized citizens of Korea, but foreign men have a worse condition because they cannot acquire Korean citizenship by marrying a Korean woman. It is because of the Korean *hojuje*. Although this system is going to be abolished, if you are a foreign man married to a Korean female citizen, you are not a naturalized citizen; you are still a foreigner. The foreign husband of a Korean woman has to continuously apply for a 3-month visitor's visa and repeatedly enter and exit the country in order to legally stay with his wife. Otherwise he has no choice but to reside without a marriage registration. The latter case has created additional social problems. Their children are not considered Korean citizens because their father is not Korean. They are usually classified as illegal migrants, just like their father.

Lastly, what is the Korean government's policy toward foreign workers? The response of the government sector to foreign labor import has been mixed. While the Ministry of Labor called for the introduction of employment permits for the foreign workers in 1994, it was not until July 2003 that, with the approval of the Korean National Assembly, the Ministry of Justice finally introduced a work permit law for foreign workers. The law was designed to grant 227,000 unregistered foreign laborers legal status. With this bill, the number of foreign workers, including legal employees and industrial trainees, has increased from 340,000 in December 2002 to 541,000 in December of 2004. So this is a phenomenal development considering the poor history of Korean government policy toward foreign workers. However, in order for these people to obtain a legal status, they must have lived in Korea for less than four years as of March 2003 and have to be currently employed in one of the six specified areas, such as manufacture, construction, service, agriculture, livestock farming, and fishery. That means you have to be useful in promoting or contributing to Korean industry. So a few foreigners who have been left out of this category have committed suicide and others have participated in massive demonstrations in downtown Seoul, causing some social problems.

As a result of the new legislation, at least 150,000 illegal workers have left the country, gone into hiding, joined in protests, or, as a last resort, committed suicide. As of

the end of 2004, an estimated 210,000 foreigners were still considered illegal in Korea. So, unless the Korean government makes a more comprehensive approach from a human security perspective, it will be difficult to avoid the criticism that it is taking advantage of foreign labor without bearing the social burden that results from such policy.

To conclude, concerning the rights of foreign workers in Korea, the International Labor Organization (ILO) has advocated for the rights of those who are currently working or searching for employment abroad by calling them “migrant workers” rather than “foreign laborers.” According to this ILO designation, the human rights policy of foreign workers should be based on the principle of equality, that is, equal treatment between the foreign and domestic workers. The Korean government should comply with the international standards that aim to protect foreign workers. For instance, the welfare of the industrial trainees could be guaranteed by stating their rights under Korean labor law. Instead of calling them “foreign laborers,” it might be more appropriate to call them “migrant workers.”

I will stop here and will be happy to answer all your questions.

Tsuneo Akaha

Thank you very much. You have covered so much – a complex, comprehensive set of issues facing Korea historically and in the contemporary period. I see a lot of parallels between the Korean experience and the Japanese experiences, as well as some distinct differences, but I would like to open the floor for questions.

Cho Woo-Seok

Actually, it’s not a question. First of all I should thank Prof. Lee for this excellent presentation. I learned a lot. I work for the Ministry of Justice and Immigration. The data and statistics are familiar to me and are well organized. But, as a practitioner like Prof. Akaha mentioned this morning, I have to give some comments on this excellent work—not to defend our Bureau, but to add some more comments and specifics.

For example, Professor Lee mentioned the human rights concern, the illegal status and that the status is very weak and when they have some troubles, the employers report their current status to Immigration authorities and they are deported without any compensation for unpaid salaries. But in reality, it does not happen this way. If an employer reports that he hired an illegal employee, there will be a serious set of penalties—they will be fined, for example. Also, in the Korean government under the current president and the former president, the prime concern has been human rights. Because there are social activists, all government officials are very highly disciplined and our big priority is the protection of human rights and respect of human rights.

In the case of industrial trainees, although the legislation does not provide for benefit of social insurance, if their status is reported to us, officials from the Ministry of Justice, the Ministry of Labor, or some other relevant government agency, we try to pick the best benefits to compensate them for any kind of their damages.

About the spouses of Korean nationals, particularly, the spouses of Korean women, we give them—and we gave them even one or two decades ago—a 2-year permit, not 3 months or or temporary visa. Because family integration is natural, so it is the prime concern of Korea’s immigration policy. Very recently, after the constitutional ruling [by the Supreme Court], we changed the immigration legislation and we now give

equal rights to foreigners and their Korean spouses. They can stay in Korea for two years and after two years they can apply for Korean citizenship. There are a general standard and regulations. But in reality, as a practitioner, I can say that the important point is maintaining a balance. Even though we have goodwill and some people try to take advantage of our goodwill. Then, how can we strike a proper balance? Because we give many benefits to people who want to marry a Korean national. But some people use marriage to get into Korea for illegal purposes, such as illegal employment. How should the government strike a proper balance on these issues?

The balance should be changed from time to time. Sometimes, when some kind of human tragedy happens, our balance is much closer to the human rights perspective, but at other times, for example in the aftermath of the September 11 incidents, our balance is much closer to the national security perspective. But the Korean government always considers what is the minimum condition of human rights and what is the minimum condition of national security. But in-between, there are times when we move up and down, up and down. So it looks like it is sometimes not a stable policy, but our main priority is to reduce the gap between the two priorities.

Concerning the industrial training system and employment permit system, these two systems are labor migration programs. For the industrial training program previously we listened to the employees' side. We have given them many benefits. This system includes a 1-year training program and a 2-year work permit. The work permit system gives all the benefits. But we also have many illegal stayers—people that work illegally, who are not in the industrial trainee program but on a tourist visa. The statistics for 2002 show we had 280 illegal stayers. Among them 60% were on tourist visas, not in the work permit or the industrial training program. That means that neither the Korean government nor Korean citizens, or the Korean society has enough experience in governing foreigners. It's not just a failure of the Korean government policy, but all Korean citizens. We don't know how to deal with foreigners properly. We could not separate people on a tourist visa and those working in Korea. So, in the immigration policy there is no clear separation as to what is a tourist visa, what is a work permit, what is a residence permit. We now realize that we need a proper governing mechanism for foreigners because they make many different legal relationships with Korea. Sometime they raise economic issues and sometimes they raise security issues. One of the fundamental changes has been in the implementation of the employment permit system, that is, in the area of legal migration channel. But as we have implemented the system, we have found that there are 300,000 illegal stayers. That means that the demand for labor is already being met by the illegal sector. When we open the legal sector, no one wants to hire legally, because the system is very complicated. You can easily find an illegal stayer next to you. So, this time, the President, our ministry, and our directors-general are all concerned about how to reduce the illegal sector. That is the most recent direction of the Korean immigration policy. We need a legal migration channel. When everything becomes legal, we will be able to provide proper protection to the foreign laborers.

Kinhide Mushakoji

First, I would like to say that I leaned very much from your presentation. It was very refreshing for me to hear an official from the Ministry of Justice talk about human rights. In my country nobody in the Ministry of Justice will protect human rights. That's

the very big difference that we have between a big human rights country like Korea and a non-human rights-oriented country like Japan.

My question is whether you have some exceptional treatment of Korean descent migrants. In Japan, migrants from Brazil or Peru who are of Japanese origin have their legal status guaranteed. But they don't speak Japanese. So, the Japanese government is not discriminating them, but the Japanese people are discriminating them because they have a Japanese face but don't speak Japanese. So my question is about how you deal with overseas Koreans. Do you have a separate treatment for them?

Now, about human rights, I have two issues in comparison with the situation in Japan. In Japan, when a foreign woman married to a Japanese man wants to protest, then the husband has the possibility to say, "If you disagree with me, I will divorce you and you will lose your status in Japan." In that sense, the foreign wife's rights are very insecure because they can be threatened of losing their Japanese nationality. How do you deal with such cases?

Finally, it is about illegal migrants. In the Japanese case, Japanese companies that are legally concerned don't hire illegal migrants. But we have sub-contractors, sub-sub-contractors, and sub-sub-sub-contractors. Most of the illegal migrants in Japan are hired temporarily by the sub-sub-sub contractors and if you arrest them, such contractors just dissolve and start a new company. So, this sub-contracting system in Japan is facilitating the exploitation of illegal migrants' cheap labor. My question is how you deal with these issues. This is a question to both of you from the researcher's side and also from the policy side.

Andrew Horvat

In Japan, as Dr. Zha (Daojiong Zha of People's University, Beijing) made in his presentation last time at the UN University, there are terrible abuses of primarily Chinese training workers, with non-payment of salaries, actually, with very serious problems within the nature of the system by which they come to China. Does the same thing exist in Korea as well? And if so, how is the problem being addressed?

Keum-Soon Lee

Could you clarify our government's position regarding children between North Korean women and Chinese men. Actually, some years ago, our officials advised North Korean defectors in Seoul, here, in this country, to start a new life, to forget their lives, partners, and children in China.

Cho Woo-Seok

I will address the last question first, about North Korean defectors. At the Ministry of Justice, there is no discretion there. We consider them not foreigners but Koreans; so we only undertake border control inspections and after that the relevant government agencies have to handle all other processes. Age is not a problem; it does not matter. If they are found to be Koreans, they have no problem getting into Korea. But with Chinese relatives, it is, again, the question of balance. Imagine that we have mostly individual cases and we fully understand what kind of a situation the applicant is in. We really want to assist and help him. Adopting a general approach is difficult. In a general approach, how can we properly distinguish between a legitimate applicant and someone

who is trying to use this system for illegal migration to Korea? Making immigration legislation specific is also quite difficult. One of the impressions that applicants have is that our immigration legislation is not specific and that it depends on the interpretation of the law. In most cases they say, “I am so [explicative]!” I don’t even have the right interpretation. Take the issue of age, for example. Which age do we consider as adult and which age do we consider as child that can be invited to Korea? I don’t have enough data now, but it is normally under high school age. Under high school age we do allow them to be invited, and over high school age we don’t. But there are no general regulations at this time as it depends on each case. Each application is decided case by case.

Keum-Soon Lee

Practically, North Korean defectors use international marriage to bring their spouse and their partners in China, but for children, born during that partnership, it is very hard to bring their children through the legal process. That was my question.

Cho Woo-Seok

I also should have said that it is very difficult. I know that the process is not easy. But you also have to consider the other aspect, that we also have to maintain our security as well. Because we will focus on human rights, but public security is also an important factor for our consideration. Normally, through, we are trying to deal with this case by case and place much accent on the human rights.

Lee Shin-wha

Well, I just want to follow up with what Mr. Cho was talking about. Our government simply didn’t know how to deal with foreign migrants or foreigners. Let me just talk about the refugee issue, for example, since I didn’t get a chance to talk about that. According to the UNHCR, in early 2003, South Korea ranked among the lowest in the world for admitting asylum seekers. It was not until February 2002 when the Korean government finally granted an Eritrean man (Tadasse Deresse Degu) refugee status based on the UNHCR standard. But since then, we admitted one per year and two in 2002, but now we admit 31—12 in 2003 and 17 in 2004. That means, 29 out of the total of 31 have been granted refugee status since 2003. That is a big development. But the problem is that those refugees, when we interview them, say they want to go somewhere else. For example, although the Eritrean refugee got medical insurance based on his refugee status, he won’t be able to bring his wife, because the Korean government says that they cannot give medical insurance to her. Thus, his wife had no choice but to go to another country (Italy) to give a baby birth. Mr. Degu is now apart from his wife and baby as the latter are still in Italy. That represents the limitations of the South Korean government’s practice in dealing with those foreigners. We must do something in a more comprehensive manner; it’s not enough to simply grant refugee status or legal status.

It should be more important how to accommodate these refugees in a ‘sustainable manner’ by integrating them into the Korean society.

Since I don’t have much time, let me just respond to one of Professor Mushakoji’s questions. In connection with the Overseas Korean Foundation, the status of the South Koreans has somewhat improved. But “overseas Koreans” means mainly Korean Americans rather than Korean Chinese or Korean Mongolians. That is, “Money talks in

Korea, just like any other countries: those Korean Americans who have the money and all those backgrounds can have better business opportunities in Korea. So they are building networks based on the Overseas Korean Foundation. So their image to the South Korean public, as well as their virtual image in the South Korean community, is pretty good. But the Korean Chinese, for example, are regarded as second-class citizens among the Korean public. Their economic status itself is very poor. Unless we somehow minimize and get a real standard towards those overseas Koreans, changing of law alone does not make much difference in addressing the problem of overseas Koreans.

Cho Woo-Seok

Concerning the matter of sub-contractors and, normally foreigners stay in Korea. As Professor Lee has mentioned, they work in the 3D sector. Employers illegally hire foreigners. That means that their working contract is very poor. Also, in many cases they are waitresses in bars and that kind of places. They cannot maintain such jobs as long-term employment. In such a case we cannot provide legal migration status. In the current Korean immigration situation, we are using Korean Chinese because they are ethnic Koreans and they can speak fluent Korean. And they are working in many places, in restaurants and bars, and we give them a kind of an open work permit, like in the Canadian system. But diplomatic relations might be tense. As Professor Lee has already mentioned, the Chinese government's position is not compatible with our policy. The Chinese government says there is only one Chinese [nation], but the Korean government thinks that there are ethnic Koreans. That is why this is a serious problem. But we maintain this system because otherwise we cannot provide a proper mechanism for such employment.

Tsuneo Akaha

Thank you very much for further educating us to the real complexities of the human security, human rights issues, involving Koreans themselves and the non-Korean citizens who are of Korean ancestry. I particularly would like to thank Mr. Cho for being so open and candid. It reminds me of a similar effort that Professor Vassilieva and I tried to organize in Beijing, inviting Chinese officials to talk about migration issues. And they were not very forthcoming. So I really appreciate your candid remarks.