



Sociedad Internacional de Derecho del Trabajo y de la Seguridad Social

XXIII Congreso Mundial

7 - 10 de Septiembre de 2021 - Lima, Perú

RETOS DE LOS SISTEMAS DE LEGISLACIÓN LABORAL Y SEGURIDAD SOCIAL

- Transformación del trabajo: desafíos para el Derecho del Trabajo
- Comercio internacional y trabajo
- Nuevos retos de la Seguridad Social
- Trabajadores migrantes
- Trabajadores atípicos e informales
- Igualdad en el trabajo
- El Estado y las nuevas formas de voz colectiva



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PATROCINADORES



AUSPICIADORES



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TRABAJADORES MIGRANTES

MIGRANT WORKERS

CHALLENGES TO LABOUR LAW AND SOCIAL SECURITY SYSTEMS LESS-SKILLED AND HIGH-SKILLED MIGRATION IN SOUTH KOREA

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ABSTRACT: After death of a Cambodia woman in a cold winter night in a greenhouse at a farm where she had been working, the government changed its position to the migrant workers' right to change workplace under the current Employment Permit System. The 17-year old system has been criticized for leaving workers vulnerable to abusive practices and even "slave-like" exploitation by employers. As a means of making up for decline in Korea's population, admitting more foreign workers is planned by the government. It plans to expand the issuance of F-2 (long-term residency) visas for foreign talented workers in promising sectors. In addition to the anti-discrimination campaign, we will meet new problem with the less-skilled migrants as well as the high-skilled migrants.

KEYWORDS: Employment Permit System, Skilled Workers, Immigration Policy.

1. RECENT INCIDENT IN SUBSTANDARD HOUSING

A migrant farm worker from Cambodia was found dead on Dec. 20, last year inside a vinyl greenhouse she had been living, The woman, 30, was not breathing when her colleagues tried to wake her up at a farm in a Province near Seoul, when the temperature dropped as low as to minus 20 degrees Celsius.

The initial autopsy result of the police showed that she had died of liver cirrhosis,

A total of five colleagues, including the deceased, were using the space as their dormitory. Three rooms, a restroom and shower facilities made of sandwich panels were built inside the greenhouse. Only the deceased spent the night before her death in the dormitory, where the heating system had been out of order. The other four slept elsewhere, unable to put up with the subzero temperature.

The woman, who entered Korea in March 2016 on a visa for low-skilled workers, began to work at the farm planting and reaping vegetables in October 2018. After working for 4 years and 10 months – the maximum length of stay allowed for the E-9 (non-professional employment) visa holders -- she was due to return home on Jan 10. An e-ticket for her flight was found inside the vinyl house.

Two days after the incident, the Ministry of Employment and Labor (MOEL) announced a decision, not to issue the employment permits to em-

ployers who offer temporary constructions such as vinyl greenhouses as accommodation for foreign workers.

According to recent data by the MOEL, some 5,003, or 31.7 percent, of the businesses using migrant workforce failed to meet minimum requirements for living standards for their foreign employees.

Since Jan. 1, the MOEL has not allowed employers who offer poor housing, such as sandwich panel structures, to employ foreign workers.

The ministry is also allowing employees who are already in makeshift dormitories to change their workplace, considering the fact that farm or fishery owners might not be able to improve living conditions immediately.

Migrant workers' groups welcomed such efforts, but pointed out that a change of workplace may not directly lead to a better living environment. Currently, most of the accommodation at local farms is substandard, temporarily built housing structures. Even if the workers are given the freedom to change their workplaces for better living conditions, they may only be moving from worse to bad.

On Feb. 2, the Ministry of Justice (MOJ) announced that employers and provincial governments hiring seasonal migrant workers this year would be banned from using vinyl greenhouses as living quarters for their employees.

Seasonal migrant workers, who come to the country for short-term work in the agricultural and fisheries sectors, are assigned to regions in accordance with the needs of each local government, which receives applications from farm owners. This year, a total of 4,361 workers would be assigned to 37 local governments.

The Immigration Office will conduct on-site inspections after the workers are sent to each workplace in order to ensure that they are provided with appropriate housing. If an employer is found to be providing a temporary shelter inside a greenhouse, the local government of that region will be excluded from the seasonal migrant workers system for next year.

On March 2, 2021, the MOEL said that migrant workers would be allowed to change their workplaces if their employers provide substandard accommodation such as makeshift dormitories built in vinyl greenhouses.

In cooperation with related government bodies, the ministry announced a set of measures designed to improve the living conditions of foreign nationals working in Korea under the Employment Permit System (EPS).

Poor dormitories will be included in the list of reasons allowing employees to switch their workplace, while business owners caught providing inappropriate housing will be banned from hiring foreign workers.

Currently, migrant workers are permitted to change their workplace up to five times during their near-five-year-stay in the case of contract termination or expiration. They may also request to end their contracts for “external” reasons such as assault and sexual harassment by employers, and delays in payment. In this regard, the opportunities for migrant workers to look for a new job would be expanded.

Under the new measures, reasons for which foreign workers can change their workplace include: unsuitable accommodation; being laid off during off-seasons at farms and fisheries; physical or mental illnesses requiring over three months of leave of absence; and fatal industrial accidents (to others) at the workplace due to safety regulation violations by employers. In addition, sexual harassment by co-workers or employer’s family members is a reason for an immediate change of workplace, which will be processed within three days from the request.

Starting March 2, the ministry allowed a six-month preparation period for farm and fisheries owners to improve the living conditions of foreign workers to cover any lack of time and resources to immediately provide new housing. Those who plan to build brand new dormitories were given one year. Business owners who fail to offer suitable housing within the period would be banned from employing foreign workers.

Also, under the new measures, migrant workers at farms and fisheries would be eligible to register for the national health insurance program upon entering the country. Until now, they had to wait six months after arrival in order to individually subscribe to the National Health Insurance Service, but not as job-based subscribers if their employers in the farming and fishing industries are not registered as businesses. During the first six months after entry, their access to healthcare services had been limited.

But the measures have been criticized for being insufficient in fully protecting the workers from unfair treatment and abuse by business owners.

2. CURRENT SITUATION

The foreign population in South Korea has fallen below the 2 million mark for the first time in over five years amid the new coronavirus pandemic, government data showed on April 27.

As of March, the total number of foreign residents, including migrant workers, immigrant wives, students and ethnic Koreans from abroad here stood at around 1.99 million, down 9.2 percent from a year ago when the corresponding figure was slightly over 2.2 million, according to data compiled by the MOJ.

It is also the 16th consecutive month the foreign population here has declined since peaking at over 2.52 million in December 2019.

The downturn is attributable to decreases in the number of foreigners both on short- and long-term stays in South Korea, which fell by 10.5 percent and 8.9 percent in March from a year earlier, respectively.

Of the long-term foreign residents, the number of those who hold government-issued alien registration cards also fell by 12.5 percent to around 1.1 million over the same period, marking the lowest figure in seven years.

The report showed that Chinese accounted for the largest proportion of the foreign population here at 43.4 percent, or about 868,000, followed by Vietnamese at 10.6 percent, Thais at 8.9 percent and U.S. citizens at 7.3 percent.

According to the 2020 Survey on Immigrants' Living Conditions and Labour Force by Statistics Korea, however, the number of de jure foreigners was 1.332 million persons in 2020, rising by 9 thousand persons from 2019.

The employment-population ratio of foreigners stood at 63.7% in 2020, dropping by 1.6%p from 2019. The unemployment rate of foreigners stood at 7.6% in 2020, rising by 2.1%p from 2019.

Based on the de jure population, the number of foreigners aged 15 or more was 1.332 million persons as of May 2020, rising by 9 thousand persons (0.7%) from the previous year.

As for foreigners by nationality, 'Non-Asia countries' and 'Other countries in Asia' increased by 17 thousand persons (14.5%) and 11 thousand persons

(2.8%), respectively. Whereas, Korean-Chinese and China dropped by 16 thousand persons (-3.2%) and 9 thousand persons (-6.3%), respectively.

As for foreigners by status of sojourn, 'Overseas Korean' (23 thousand persons, 7.5%), 'Other' (17 thousand persons, 11.2%), 'Marriage Migrant' (12 thousand persons, 10.8%) and 'Permanent Residency' (11 thousand persons, 10.6%) recorded a year-on-year increase.

- 'Work and Visit' (-40 thousand persons, -20.0%) and 'Non-professional Employment' (-9 thousand persons, -3.5%) recorded a year-on-year decrease.

<De jure foreigners by nationality> (Unit: thousand persons, %)

SOURCE: STATISTICS KOREA

	Population aged 15 or more	Asia					Non-Asia
		Korean-Chinese	China	Vietnam	Other countries in Asia		
May 2019	1,322.6	1,208.0	506.6	136.3	165.9	399.2	114.6
May 2020	1,331.8	1,200.6	490.5	127.7	172.0	410.4	131.2
Change from the previous year	9.2	-7.4	-16.1	-8.6	6.1	11.2	16.6
Percent change	0.7	-0.6	-3.2	-6.3	3.7	2.8	14.5

Employed immigrants: The number of employed foreigners was 848 thousand persons in 2020, which declined by 15 thousand persons (-1.8%) from 2019. The employment-population ratio of foreigners stood at 63.7% in 2020, dropping by 1.6%p from 2019.

The number of naturalized Koreans was 29 thousand persons in 2020, which decreased by 3 thousand persons (-9.2%) from 2019. The employment-population ratio of naturalized Koreans stood at 59.1% in 2020, dropping by 5.7%p from 2019.

Employed immigrants by status of sojourn: As for employed foreigners by status of sojourn, 'Overseas Korean', 'Other' and 'Marriage Migrant' grew by 11 thousand persons (5.4%), 11 thousand persons (20.3%) and 6 thousand persons (10.1%), respectively, from 2019. Whereas, 'Work and Visit' and 'Non-professional Employment' fell by 41 thousand persons (-25.9%) and 10 thousand persons (-3.7%), respectively, from 2019.

Employed immigrants by industry: As for employed foreigners by industry, ‘Agriculture, Forestry and Fishing’ and ‘Electricity, Gas, Steam and Air Conditioning Supply, Transportation and Storage, Information and Communications, and Financial and Insurance Activities’ increased by 5 thousand persons (9.2%) and 5 thousand persons (37.1%), respectively, compared to the previous year. In the meantime, ‘Mining and Manufacturing’ and ‘Construction’ decreased by 20 thousand persons (-5.0%) and 10 thousand persons (-10.0%), respectively, compared to the previous year.

As for employed naturalized Koreans by industry, ‘Electricity, Gas, Steam and Air Conditioning Supply, Transportation and Storage, Information and Communications, and Financial and Insurance Activities’ grew by 0.2 thousand persons (25.0%) compared to the previous year.

Whereas, ‘Wholesale & Retail Trade, and Accommodation & Food Service Activities’ and ‘Business, Personal and Public Services’ decreased by 1 thousand persons (-13.4%) and 0.7 thousand persons (-12.1%), respectively, compared to the previous year.

Wage and salary of foreigners: The share of wage and salary immigrant workers earning ‘2 million won or more’ dropped by 0.1%p to 67.5% in 2020. The share of wage and salary immigrant workers earning ‘less than 2 million won’ fell by 0.1%p to 32.5% in 2020.

Nationality of the Foreigners with the status of ‘Non-professional Employment (E-9)’: As of May 2020, as for the nationality of foreigners with the status of ‘Non-professional Employment (E-9)’, Cambodia occupied the largest share at 13.7%. This share was followed by Vietnam (13.5%), Nepal (13.0%), Indonesia (10.3%) and Thailand (9.5%).

On April 13, the government announced a decision to extend the period of stay for about 115,000 foreign migrant workers by one year in a bid to relieve labor shortages at small businesses and in farming and fishing communities.

The labor and justice ministries decided that the temporary extension of stay will apply to the E-9 non-professional employment and H-2 visiting employment visa holders, whose period of staying and working in South Korea was set to expire between April 13 and Dec. 31.

The extraordinary measure was implemented in consideration of COVID-19-related travel restrictions faced by migrant workers and labor shortages at domestic industrial, farming and fishing businesses.

A total of 62,239 E-9 visa holders eligible for the special measure would all be allowed to extend their period of stay and work activities by one year. In the case of 52,357 eligible H-2 visa holders, confirmation on whether they are legally employed or not is needed prior to the extension of stay, thus a maximum of 114,596 migrant workers may benefit from the measure.

According to government data, the number of foreign workers arriving here with E-9 visas fell sharply from 51,365 in 2019 to 6,688 last year, due mainly to massive cancellations of international flights caused by the coronavirus outbreak. Arrivals of H-2 visa holders also dived from 63,339 to 6,044 in the same period.

Thus, the number of E-9 visa holders staying here stood at 237,000 as of the end of last year, marking a fall of 14.4 percent from 277,000 a year earlier, while H-2 visa workers also shrank 31.4 percent from 226,000 to 155,000.

The steep reductions in E-9 and H-2 visa holders have worsened labor shortages at small and medium-sized companies and in farming and fishing villages.

The latest measure came as the revised Foreign Employment Act took effect on the day, paving the ground for extending the employment period of foreign workers by up to one year if their entry or departure becomes difficult due to the spread of infectious diseases.

3. EPS. MODERN-DAY SLAVES?

The Employment Permit System (EPS) was supposed to be a win-win solution for South Korean employers struggling to find workers and Asian workers seeking higher-paying jobs overseas.

The 17-year-old system, however, has been criticized for leaving workers vulnerable to abusive practices and even “slave-like” exploitation by employers. At the center of the dispute is a clause in the legislation that effectively bans workers from changing workplaces.

In July 2020, the National Human Rights Commission of Korea conducted an inspection into the working conditions of 63 migrant fishing crew members on islands off the west coast and found they clocked 12 hours a day on average with less than an hour for breaks.

Some 90 percent of the workers said they’d had no official days off for a year. Their average monthly income was about 1.87 million won(\$1,640).

Based on the minimum wage, they should be paid an average of 3.09 million won(2,706), plus significant amounts for overtime. There were six cases where migrant workers had their passports confiscated and 23 where their bankbooks were taken away.

Launched in 2004, the EPS has been a major platform to bring in foreign workers from 16 countries¹ to meet labor shortages at small and medium-sized firms here in the manufacturing, agricultural and fishing sectors. Those low-skilled jobs are often shunned by Korean workers. Currently, there are about 248,000 migrant workers here under the EPS.

The government annually reviews labor shortages in each industry and sets the quota to take in foreign workers based on employers' needs. A state-run agency stationed in each country selects migrant workers based on their language proficiency.

Migrant workers arrive in Korea with a contract, which initially allows them to work for up to three years. If their employers agree, they can extend the contract by a year and 10 months. If they are considered "diligent workers," they can earn a chance to reenter the country and work here for another four years and 10 months.

Those who leave their jobs without their employers' consent are reported to the police as illegal immigrants and could end up being deported.

The EPS was designed for a migrant worker to work up to nine years and eight months for one employer. A migrant worker signs an employment contract before they enter the country and before they even meet their employer based on limited information on the contract.

The system was designed only for the government's convenience -- to manage migrants and to meet the demands of employers.

As the EPS does not reflect the human rights of migrant workers, five migrant workers who filed a petition with the Constitutional Court in March 2020. In the appeal, the workers argue that the EPS clause restricting migrant workers from changing their workplaces violates basic rights guaranteed by the country's Constitution and amounts to forced labor.

1 The Philippines, Mongol, Sri Lanka, Vietnam, Thailand, Indonesia, Uzbekistan, Pakistan, Cambodia. China, Bangladesh, Nepal, Kirghizstan, Myanmar, East Timor, Laos.

The MOEL for its part, argues that the controversial restrictions are necessary to prevent the system from turning into a route of illegal immigration. The main goal of the EPS is to curb the shortage of workers for small and medium-sized employers here, and migrant workers can enter Korea only when there is an employer to hire them, the ministry says.

Migrants' rights activists said it is time that Korea face up to the inhumane treatment of its migrant laborers. "We cannot deny migrants are tied to their employers, with their conditions similar to those of slaves," they said.

Foreign or not, no one should fall victim to forced labor, and everybody deserves to get paid fairly for their labor.

Along with the fight at the Constitutional Court, migrant workers and their advocates are calling for the overhaul of the Work Permit System (WPS).

So-called "diligent workers," who have maintained employment here with the same employer without changing jobs for four years and 10 months, are granted another chance to re-enter the country after a three-month waiting period.

During their initial stay, migrant workers under the EPS are technically allowed to change jobs up to five times, in the case of contract termination or expiration.

They may also "request" to end their contracts for other reasons, such as assault or sexual harassment by employers, payment delays or substandard housing conditions. Upon making the request, the workers need to submit evidence proving they have been mistreated, and receive employer approval in order to end the contract.

Such tough requirements make it virtually impossible for workers to switch jobs. Foreign workers are concerned they won't be recognized as "diligent workers" if they become involved in labor disputes.

The EPS scheme has given more power to business owners, while making employees highly vulnerable to unfair treatment and abuse. Migrants' rights activists criticize that the government has long turned a blind eye to the issue, thereby turning the EPS into "modern-day slavery" that violates basic human rights and the labor rights of migrant workers.

They believe that giving workers with foreign nationalities the freedom to change jobs will naturally resolve many existing problems, such as the dire

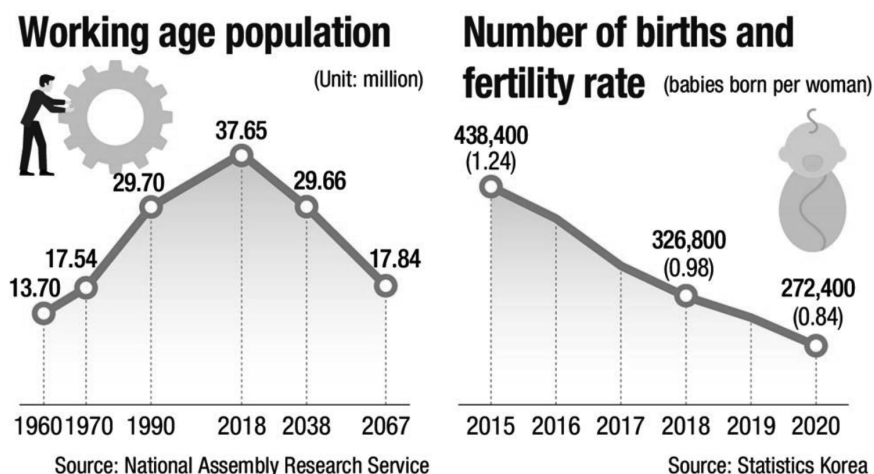
working conditions, appalling housing conditions, payment delays, violence and sexual harassment.

The employment of foreign workers is strictly limited to certain industries, such as agriculture, fisheries and manufacturing and as the employment contracts of EPS workers are strictly monitored by the government, it is impossible for foreign national manpower to flow into other industries.

4. POPULATION DECLINE NEEDS MORE IMMIGRANTS

With the country's record-low birthrate continuing to drop, Korea's population started to decrease in 2020 – the number of babies born totaled only 272,400, while 305,100 people died. The working age population, or those aged from 15 to 64, started to decline even earlier, in 2018. That figure is expected to fall to 29.66 million in 2038 from 37.65 million in 2018.

These realities mean that in the future, the government will be able to collect less tax revenue from workers, while there will be more elderly retirees who need financial support. Every 100 individuals in the working age population will have to support 76 elderly people in 2065, which is the highest number of elderly among the Organization for Economic Cooperation and Development (OECD) member countries.



South Korea's total fertility rate hit a record low of 0.92 in 2019, way below the 1.63 average of members of the OECD, proving that over 140 trillion won

(\$122.4 billion) in state funds poured into tackling the nation's low birth rate crisis over a decade since 2006 was futile.

This trend does strike as particularly troublesome especially during an economy weighed down by the COVID-19 pandemic – as reduction in jobs and thus overall income are undoubtedly detrimental toward efforts to overturn the country's low-birth, aging society conundrum.

At the beginning of July this year, South Korea's top economic policy-makers laid out a rough policy vision on dealing with the demographic crisis at hand, with a focus on sustaining the size of the country's working-age population, during an interagency meeting reviewing the state of the economy.

South Korea's working-age population is projected to decline an average of 330,000 per year in the 2020s when baby boomers, born from 1955-1963, will reach over age 65.

The country is also widely expected to become a super-aged society in 2025, in which the proportion of those aged 65 and older will hit 20 percent of the total population.

1. To deal with this problem, the government said it aims to put priority on strengthening child care services to prevent more women from experiencing a career break due to childbirths and raising their children.

The government will extend the child care program for elementary school students and expand all-day child care services to promote women's participation in economic activities.

The announcement came as more working moms had to quit their jobs to look after their children who study at home as they found it difficult to hire child care workers during the pandemic.

2. Another means of making up for loss in the size of the working population is by admitting more workers from overseas. The government announced it plans to expand the issuance of F-2(long-term residency) visas for foreign talented workers in promising sectors.

Authorities also plan on introducing a new visa category centered on remote work for exceptional foreign talent in areas of information technology and other cutting-edge fields.

3. The government also plans to initiate a national debate to discuss ways to reform the labor market system regarding senior workers, including areas related to their employment and wage structure, through the presidential economic, social and labor council.

Officials, however, dismissed speculation that the country is considering extending the retirement age, currently set at 60. Whether to extend the retirement age, possibly to 65, has become a hot-button social issue as the country is expected to face the so-called demographic cliff in coming years.

5. SKILLED WORKERS

The government plans to ease visa rules for foreign workers in R&D and new industries such as artificial intelligence (AI) to more actively attract skilled foreign professionals as part of measures to secure a competitive edge in the rapidly changing global industry ecosystem.

A foreigners' policy committee chaired by Prime Minister Chung Sye-kyun finalized the decisions during a meeting on March 31, saying the measures will also be aimed at bracing for a continued decrease in Korea's population, accompanied by a growing number of elderly people, resulting in declines in the number of workers.

The government will ease the criteria for a D-8-4 (start-up) visa for those seeking to establish companies here as long as the excellence of their technologies is recognized.

The government will also remove limits on the number of foreign workers to be employed by companies in new industry fields, such as AI and bioscience, in a bid to lower the barrier to foreigners' entry into domestic firms.

Other measures include the establishment of a new entry pass called the "digital nomad visa" for skilled foreign workers who generate a certain amount of income from abroad.

The new visa, which will be issued even to applicants not working for companies based in Korea, will allow them to stay here while working remotely, which is a growing trend, in the expectation to help invigorate the country's tourism industry and promote cooperation with domestic companies.

6. UNDOCUMENTED CHILDREN

Currently, children without legal immigrant status are allowed to stay in the country until they finish high school, after which they face deportation.

In order to protect the basic rights of these children, the MOJ announced on April 19 a policy, under which unregistered migrant minors can apply for temporary legal status – a D-4 visa usually given to people studying here, or a G-1 visa that allows a one-year stay for various reasons.

Eligible applicants are limited to those born and resident in Korea for more than 15 years, who graduated from elementary school before Feb. 28, 2021. The policy would be effective until February 2025, and those wishing to apply should visit an immigration office with their parents.

The ministry noted that the limits on eligibility and duration of the policy were aimed at preventing it from being abused for illegal immigration. The ministry estimates that there are up to 20,000 undocumented migrants in Korea under the age of 18 and 100 to 500 of them will be eligible to apply for the temporary resident status.

However, the local migrants' rights groups commented that the policy introduced by the MOJ to give undocumented migrant children legal status and allow them to have temporary residency rights, may not be helpful for those in need. There would be few if any applicants due to the strict requirements as well as additional clauses penalizing their parents.

In order to sign up for the temporary stay, parents who have stayed here illegally for over seven years must pay a fine of up to 30 million won (\$27,000) depending on the duration of their stay. If they are able to pay the fine within three months, the amount will be reduced to 9 million won.

The heavy fine on parents will bar eligible children from applying. The 30 million won fine, even if it gets reduced to 9 million won, is an excessive burden for unregistered migrants who mostly hold low-paying jobs,

As the policy cover only children born in Korea, it leaves many unregistered minors born outside the country in a blind spot. It was criticized, also, that the ministry specifically limited the application to children who have stayed here over 15 years.

It is difficult to see a particular reason behind the ministry's concern that the policy may be abused by illegal immigrants. The government might seem to be taking an overly cautious stance due to public sentiment opposing immigrants.

The policy should have been devised in a way to protect as many undocumented children as possible, based on the U.N. Convention on the Rights of the Child, which the Korean government ratified in 1991.

According to the convention, "every child has the inherent right to life," and "the state shall ensure to the maximum extent possible the survival and development of the child."

7. IMMIGRATION POLICY

The government should change its immigration policy drastically in the face of the declining population and the establishment of a ministry in charge of managing immigration issues is necessary to implement comprehensive related policies.

The immigration policies have to be taken care of under one integrated government affiliation in order to lay out a cross-sectoral policy addressing all non-Koreans residing in the country.

Policies on foreign residents here have been devised and implemented mainly by three ministries - the MOJ is in charge of visa schemes; the Ministry Gender Equality and Family (MOGEF) focuses on assimilating marriage migrants into Korean society; and the MOEL is in charge of migrant workers entering Korea under the EPS.

The need to establish a short- to long-term policy on the extent to which we will accept these people in order to make use of them and how we will fit in with them in order to live comfortably.

In particular, Kim & Lee suggested to set up a tentatively named "immigration policy committee," serving as a control tower for overall immigration policy, to integrate five committees, including the current foreign policy committee, the multicultural family policy committee, the foreign workforce policy committee, the cultural diversity policy committee and the overseas Koreans policy committee.

They also proposed that temporary migrants should be included in the list of social integration policies, and that the status of skilled migrant workers

should be changed gradually to professionals on E-7 (foreign national of special ability) visas in consideration of the human resources shortage.

In many cases, whether or not foreign residents are eligible for a government support program depends on the type of visa they are holding, rather than the circumstances they are in, leaving many migrants seeking support in blind spots.

Given that the needs of each migrant vary, the support system needs to turn into a socioeconomic need-based policy. The country should not unnecessarily allocate resources for people who do not require support from the government. Rather, the resources should be given to the needy regardless of legal status or nationality if a person stays long term..

Meanwhile, the state support programs targeting only specific migrant groups may adversely affect their integration into Korean society since it could stigmatize migrants as a “burden,” with associated discrimination and hostility toward non-Koreans still commonplace. Such support measures that separate migrants from local residents often provoke a backlash among Korean nationals who view the policies as reverse discrimination.

Therefore, instead of continuing to introduce separate welfare programs and operating support centers specifically for foreign residents, it is advised to gradually integrate them into the existing administrative system and welfare programs.

While revising migrant policies will be a long term task for the government in building an inclusive society, some issues regarding marginalized residents of foreign nationality in legal blind spots should be addressed immediately.

To begin with, more freedom should be given to migrant workers under the EPS, which prevents them from changing jobs without the consent of their employer. Although migrant workers under the EPS are not permanent residents, it is the government’s responsibility to guarantee their basic human rights during their stay in Korea. The labor authorities should thoroughly review the system and fix the rules if necessary, to better reflect the needs of employees.

In addition, they urged the government to take a humanitarian approach on the issues surrounding undocumented children, who face deportation after graduating high school.

Whatever mistakes a child’s parents made to end up undocumented should not be passed down to the child. These migrant children are fully integrated in

Korea and are well prepared to contribute to Korean society if given the chance. The government should find ways to retain them, within permanent pathways, for the best interests of the country, as well as the child.

As it could be difficult for the Korean government to immediately give the undocumented children legal status, it should at least come up with ways to provide aid through cooperation with civic groups.

In the case of single foreign parents who face hurdles in attaining stable legal status, easier pathways to citizenship or permanent residence for divorced spouses with Korean children are clearly in the best interest of their children. These pathways need to be attainable, recognizing the difficulties of being a single parent.

8. ANTI-DISCRIMINATION CAMPAIGN

“Migrant workers are indispensable for Korea but have become targets of discrimination and hatred amid negative awareness by the government and society,” said Udaya Rai, chairman of Migrant Workers Union during a ceremony to celebrate the International Day for Elimination of Racial Discrimination at Hongdae Youth Space JU in western Seoul on March 21. “The only time migrant workers get the society’s attention is when they die, as seen by a Cambodian worker’s recent death.”

The participating groups pointed out that migrant workers pay taxes just like Koreans but are excluded from various social services, including quarantine measures and disaster support funds concerning Covid-19. Moreover, the EPS keeps them from moving to other workplaces, binding them to forced work. Worse yet, foreign workers have to live in illegal dormitories in factories, which are highly risky of industrial accidents.

The inequalities of these workers do not end here, Many foreign women workers in Korea also face risks of sexual violence in workplaces.

The participants at the forum raised voices that Korea cannot delay the anti-discrimination law any further. They pointed out that racism occurs not only from racial and national differences but also from religious and cultural gaps.

They are going to meet new problem to solve in near future. New stratification within the migrants society. Until now we have desperately discussed

on the EPS, which has to do with the E-9 (non-professional employment) visa holders. Now the government of Korea is considering to grant F-2 (long-term residency) visa to high-skilled foreigners as a way to tackle the diminishing population and retain talented workers.

The need for the law against discrimination is becoming stronger in international society.

“Human rights are the key to responding to Covid-19,” the groups quoted the World Health Organization as saying in April last year. WHO stressed that viruses do not discriminate against humans but affect inequality. The international society especially specified the principle of “including migrants in disaster response.”

The International Organization for Migration (IOM) and United Nations High Commissioner for Refugees (UNHCR) also declared that the world could control the disease only through an inclusive-approach that protects everyone’s lives and health rights, from a joint statement for refugees, migrants and stateless people.

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