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Abstract

In the era of globalization, the notion of the migrant worker is not an unfamiliar one, albeit not a welcomed notion by countries intent on maintaining the semblance of a homogeneous society. As one of the earlier industrialized countries in East Asia, the Republic of Korea experienced firsthand the benefits of having migrant workers. It would certainly not be an understatement to state that the migrant worker has played an integral role in helping the Korean economy recover from the Asian economic crisis in the late 1990s and sustain itself in recent years. With the number of migrant workers only expected to grow in years to come, the impact of the migrant worker on Korean society will no longer be economical, but also social, political, and cultural. No longer is the migrant worker a temporary solution to overcome labor shortages but rather, it is, and has become a permanent part of today's Korean society. It would therefore seem imperative that the Korean government devise long-term strategies as to how it will address these issues. This paper seeks to highlight the emergence and evolution of the migrant worker in the Republic of Korea, discuss consequences and implications for Korea's continued migration policy, and make recommendations for reforming Korea's migration policy.

Keywords Migration, Reformation, Korea, Migrant Worker, Labor, Human Resources Development

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Introduction

There was once a time when global economic and political elites were the only ones with the ability to cross borders at will, while the poor were meant to stay at home: "the riches are global, the misery is local" (Bauman, 1998:9, 74). Technology and the integration of regional and international economies have now made it possible for people from one country to move to other parts of the world, in pursuit of opportunities for a better life. Globalization has now made it possible for countries and its citizens to experience the flow of capital, goods and people across borders. While most countries openly embrace the inflow of capital and goods, many are suspicious when it comes to the inflow of people. The flow of people, often referred to a migration, is strictly regulated and differentiated from other types of inflows.

The objective of this paper is to highlight the emergence and evolution of the migrant worker in the Republic of Korea, discuss consequences and implications for Korea's continued migration policy, and make recommendations for reforming Korea's migration policy.

An Overview of Migration in South Korea

According to Statistics Korea, Korea hired 791,000 migrant workers in 2012.

	2007	2008	2009	2010	2011
Professional Migrant Workers	35,000	38,000	41,000	44,000	48,000
Unskilled Labor Migrant Workers	443,000	511,000	511,000	514,000	547,000

Source: Young-bum Park, Korea Research Institute for Vocational Education and Training, Major trends and issues of Korea's expatriate employment policy, Samsung Economic Research Institute

The labor market of Korea today is vastly different from what it was forty years ago. Having first started off as an exporting nation, Korea did not need to rely on foreign investment

at the initial stages of industrialization. As its economy started to flourish, in the1980s, Korea like Japan sought to maintain market access in labor-intensive industries by promoting the relocation of labor-intensive production processes to lower wage countries primarily located in Southeast Asia. The rapid economic growth of Korea conceived a new generation of workers who became reluctant to engage in '3D' jobs (dirty, difficult, and dangerous). From the mid-1980s, growing labor shortages in Korea began to attract illegal foreign workers who were mostly ethnic Koreas from China entering the country as tourists. To assist the many small and medium-sized manufacturing firms that were experiencing labor shortages, the Korean government introduced the Industrial Trainee System (ITS) in 1993. This was Korea's first official step to opening its doors to migrant workers.

The Industrial Trainee System Program

The ITS program made it possible for Korean firms with foreign operations to bring in a limited number of foreign workers under the pretext of upgrading the skills of their overseas workforce. Later on, firms without foreign affiliates were also permitted to import workers under the ITS program. Preference was first given to small and medium-sized enterprises (SMEs) in the manufacturing industry and later expanded to include SMEs in construction, fishing, and agriculture. Although the ITS program seemed reasonably successful, it soon became evident that the program had many loopholes. Not only was there illegal use of the trainees, but there were also irregularities in the labor recruitment process. Moreover, the ITS program was criticized for increasing the number of undocumented migrant workers and violating labor laws and the rights of the migrant workers. To address such issues, the government worked with the International Labor Organization (ILO) to create the Employment Permit System (EPS) in 2004.

The Employment Permit System

Under the EPS program, Korea signs a bilateral agreement in the form of a memorandum of understanding (MOU) with 15 countries and sets a quota for workers from each country¹. By executing the MOU between the two governments, this helps to ensure that there is both transparency in the selection process and accountability for the migrant workers. The MOUs make it clear that government agencies will be responsible for recruitment and required pre-departure training, taking the process out of the hands of private brokers. Under the EPS program, workers are sent to Korea to work for initially three years and then an additional 22 months after finishing the initial employment period. To apply for the EPS program, migrant workers must pass a series of Korean proficiency tests known as TOPIK as well as various types of skill tests to ensure compatibility between the prospective worker and employer. Korean firms that participate in the EPS program must provide evidence that they are hiring foreign workers as a last resort measure after having tried to fill the position unsuccessfully with domestic workers.

According to Article 2 of the Act on Foreign Workers' Employment, Etc., a migrant (foreign) worker is defined as a person who does not have Korean nationality and who works or intends to work in a business or workplace located in Korea for purposes of earning wages.

Under the EPS program, there are two types of workers: foreign workers who receive an E-9 visa and ethnic Koreans who receive an H-2 visa. Unless a migrant worker is an ethnic Korean with a foreign nationality, most migrant workers receive an E-9 visa that qualifies them to work in four industries: manufacturing, construction, fishing, agriculture and livestock. Foreign workers can be employed in Korea for a maximum of three years but there are restrictions regarding family accompaniment. Once the visa expires, foreign migrant workers are expected to leave the country and cannot be employed again in Korea until six months after the departure date. Should an employer request re-employment before a migrant worker departs, an extension may be granted only once according to labor contract renewal terms. Once a migrant worker has been selected to work at a certain business, the migrant worker may not change workplaces at will. Only in certain circumstances such as a suspension or closing of a business, delays in wages or other justifiable cause such as unfair treatment or

¹ The 15 countries are Bangladesh, Cambodia, China, Indonesia, Kyrgyzstan, Mongolia, Myanmar, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand, Timor-Leste, Uzbekistan, and Vietnam.

violation of labor contract terms may warrant a change in employment. Otherwise, there are restrictions on changing employers once a worker has entered into the country. Upon the expiration of their employment period, the Happy Return program offered by the Ministry of Employment and Labor offers migrant workers returning home vocational training, pre-return recruitment services, and administrative support with the goal of helping workers continue to use their newly acquired skills.

Protecting the Rights of Migrant Workers

Migrant workers can be protected at three levels: national, regional, and international. At the international level, migrants lack comparable legal and institutional protection given that relatively few countries have ratified or applied international standards as set forth in ILO Conventions No. 97 of 1949 and No. 143 of 1975 and the 1990 United Nations Convention on the Rights of Migrant Workers and Members of their Families. Consequently, there is currently no body of international law or policy that governs how countries should uniformly deal with issues of international migration.

The lackluster enthusiasm of countries regarding these international instruments is not surprising. Whether it is a sending or receiving country, many countries do not have long-term strategies as to how migration issues should be addressed. Moreover, countries are reluctant to take steps in dealing with such issues which might possibly increase the cost of migrant labor to employers. Nonetheless, with global integration, global trade agreements are now possibly becoming the vehicles for formulating international standards on migration. Efforts such as the Bangkok Declaration on Irregular Migration are positive steps that have been taken by countries interested in promoting greater regional cooperation on regional migration issues^{2 3}.

² Hosted by the government of Thailand, representatives from the governments of Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Indonesia, Japan, Korea, Lao PDR, Malaysia, Myanmar, New Zealand, Papua New Guinea, the Philippines, Singapore, Sri Lanka, Thailand, Vietnam, and the Hong Kong Special Administrative Region met on April 21-23, 1999 to discuss the question of international migration, with particular attention on irregular/undocumented migration.

³ See IOM, Migration Initiatives: Bangkok Declaration and IOM Programs in South-East Asia, July 1999 (http://www.iom.ch).

The next step would be to create some type of legally binding instrument which could set the standards for the treatment of migrants and the management of migration.

Korea is not inclined towards signing the United Nations Convention on the Rights of Migrant Workers and Members of their Families. However, at the national level, Korea has designated the Ministry of Employment and Labor (MOEL) with the mission of ensuring that foreign migrant workers are protected by national labor laws without discrimination. MOEL seeks to enforce such laws through the annual guidance and inspection of 4,000 to 5,000 businesses that employ foreign workers. Under the EPS program, migrant workers are entitled to the same basic labor rights as Korean nationals – freedom to join trade unions, freedom from forced labor, freedom to bargain collectively, and non-discriminatory treatment. They are also covered by compulsory national health insurance and accident compensation insurance. MOEL also has a call center where foreign workers may receive counseling in their own language and 34 support centers for foreign workers nationwide that provide both Korean language education and grievance counseling (MOEL 2012).

Enforcing the Terms of the EPS Program

In an effort to ensure that migrant workers do not end up staying illegally in Korea once their employment period has expired, MOEL has made it clear that it will reduce the number of newly arriving foreign workers from any country that has a large share of illegal foreigners living in Korea. In the case of Vietnam, MOEL halted the EPS program in August 2012 after reports indicated that a large number of Vietnamese workers were overstaying their visas to work illegally in the country. Once the proportion of illegal Vietnamese workers dropped from 49.9 percent in July 2013 to 38.2 percent in October 2013, a special agreement was drafted between MOL and the country of Vietnam. According to the terms of the special agreement, for a period of one year, Vietnamese workers who have registered for or passed the Korean language test in 2011 or 2012 will have the chance to work in Korea. Once the special agreement expires in December 2014, both countries have agreed to review the situation of Vietnamese workers, to

determine whether Vietnamese workers will be permitted to work under the EPS program (Tuoi Tre News, 2014).

Given that Korea's annual quota for foreign workers under EPS is affected largely by the rate of illegal workers remaining in Korea, countries such as the Philippines are taking this seriously as it seeks to strictly monitor contracts of Filipino workers in Korea in hopes of sending more workers to Korea in 2014 (Philippines, 2013)

Criticisms of the EPS Program

Korea's EPS program has four objectives: 1) address the labor shortage faced by small and medium-sized enterprises; 2) prevent irregular migration and enhance recruitment transparency; 3) respond to the employers' labor demand; and 4) protect the human rights of migrant workers (Lim, 2011). The EPS program was designed to guarantee all legal migrant workers the same working conditions as domestic workers. However, many businesses reportedly violate the rules. Given the language barrier and the lack of knowledge regarding the Korean legal system, foreign migrant workers are unable protect their legal rights when faced with such violations.

The EPS program as it currently stands is designed to prevent migrant workers from settling down permanently in Korea. Most workers are prevented from inviting their spouses or children to join them and the maximum permitted stay is two months shy of five years, which is the minimum required time frame needed for an individual to apply for permanent residency in Korea.

Recommendations for Reform

Korea's existing migrant policy of focusing on low-skilled labor will need to be reformed given the convergence of several factors. First of all, the country continues to experience labor shortages in other industries beyond the four designated industries under the EPS program. Secondly, Korea will continue to experience a serious shortage of labor given the country's low birth rate at about 1.2 children per woman and the increasing elderly population where the ratio of workers to retirees will decline from 4.5 in 2010 to just 1.2 in 2050. In light of such trends, one may safely assume that migration in Korea will likely need to increase in the future, rather than decrease. Korea has also passed the point where the notion of migrant workers may be thought of as a transient or temporary phenomenon. The time has now come for Korea to focus on reformulating a suitable migration policy based on long-run considerations of the market needs, the human rights of migrant workers, and strategies for attracting highly skilled workers to halt the brain drain of Korea's skilled workforce. The face of Korean labor market is literally changing; reform of Korea's migration policies is clearly in everyone's best interests.

Re-Examine the Issue of Permanent Residency for Migrant Workers

Korea has been aggressively pursuing and executing free trade agreements with various nations on one hand while simultaneously limiting the migrant worker's ability to apply for permanent residency. Such asymmetry in Korea's policy approach regarding the trading of goods versus that of migration is commonplace among many nations. There are some plausible factors that may explain why the political stance toward migration is more restrictive than that on trade. First, unlike the trading of goods, migration is likely to be significantly less reversible in terms of its long-term effects. In other words, once the door of migration has been opened, it is almost impossible to close. Furthermore, while it may be possible for a country to institute temporary protective measures by suspending the importation of certain types of goods, the same cannot be said for migrant workers. Expelling migrants purely for economic reasons would not be well-perceived by the international community. Secondly, migrant workers who have the chance to permanently settle in Korea as citizens may start to compete with natives. Regulating how foreign goods compete with local products may be possible; however, that is certainly not the case when dealing with individuals.

Reforms making it possible for qualified workers to apply for permanent residency may help address the issue of illegal migrant workers. This is closely linked to the border controls argument, which argues that tougher border controls make it more likely that migrant workers will not go home when their work contracts expire. What variables need to be considered in determining whether migrant workers should be given the opportunity to apply for permanent residence is a topic that warrants additional research and analysis.

One point to note here is that Koreans traditionally do not perceive themselves to be multi-cultural or multi-ethnic. However, attitudes seem to be changing. According to a 2010 poll, 56 percent of the respondents approved extending South Korean citizenship to immigrants from Southeast Asia, which was up from 16 percent in 1998. Social change that embraces foreigners as being part of Korean society certainly seems imminent. In 2012, a foreign-born immigrant from the Philippines became the first foreigner to join the South Korean parliament (Financial Times, 2013).

Devise Migration Policies to Attract Highly Skilled Workers

Korea's migration policy needs to be reformed to include strategies to attract highskilled workers in the future. Korea has established itself as a favored receiving country when it comes to low-skilled migrant workers. However, it must likewise make sure that it does not become a sending country as it relates to high-skilled workers. The migration policies of the United States and many European countries have always attracted many highly skilled professionals to migrate permanently to such countries. The migration of such highly skilled workers have inadvertently positioned Korea as a sending nation, which it cannot afford to sustain given current trends of low birth rates and an increasing elderly population. Korea should also actively recruit highly skilled workers in the form of foreign students who are coming to Korea to study.

Address Public Concerns Regarding Migration

The challenges associated with policy reform will need to first start with accepting the reality that migrant workers are a permanent part of today's Korean labor market. Only then does it become possible to create a comprehensive migration policy that is consistent with the changing labor market conditions and the priorities of national economic development while also addressing the social and cultural components associated with migration. The experience of countries such as the United States and many European countries has been that even temporary migration often has elements of permanence. Therefore, it would be a good starting point to address public concerns regarding social integration of the migrant worker given that integration is a process that cannot be achieved overnight.

Secondly, one of the more prominent concerns for citizens in countries with migrant workers is that migrant workers will take away job opportunities from non-migrant workers. To date, there is no empirical evidence to support the argument that migrant workers will "steal" job opportunities from Koreans. In fact, the economic crisis in Asia proves that the contrary is true. During the economic crisis, the number of unemployed Koreans jumped from 660,000 at the end of 1997 to an estimated 1.8 million in February 1999; yet, migrant workers were not repatriated in large numbers because there were still significant demands for workers that were not being met by the local population. Consequently, the Korean government ended up encouraging more migrant workers to enter into the country to meet the labor needs of many SMEs. The example of the economic crisis made it clear that migrant and non-migrant workers were not close substitutes. The economic crisis did not in any way dampen the market's need for migrant workers in jobs that had long been shunned by the local Korean workforce.

Philip Martin (2000) observed: "Most East Asian societies receiving migrants insist that migrants are and will remain temporary workers, not permanent residents." The experience of many European countries demonstrates that many migrant workers choose to settle down permanently in their host countries. This trend is likewise revealing itself to be a reality in today's Korean society. The number of multiracial families in Korea has grown to around 75,000 as of July 2013 and is expected to top one million in 2020 (Shim, 2014).

The sooner the Korean government can initiate reforms on its migration policy, the smoother the social integration process of migrant workers into Korea's society. Countries like Singapore and Hong Kong have already accepted this trend as evidenced by the number of skilled migrants who have the chance to live as permanent residents in these countries.

Seek Increased Cooperation and Receive Feedback from MOU Partners

Many countries have come to view Korea as an important labor-receiving country. As such, the Korean government should seek increased cooperation on the part of the sending country to ensure that migrant workers return to their home countries. Furthermore, it is recommended that MOEL regularly meet with representatives from MOU partners to receive feedback for purposes of improving its EPS program. Moreover, MOEL should continue to work with the ILO that is responsible for providing technical support for the EPS program.

Conclusion

Juan Somavia, ILO Director-General once stated that "Migrant workers are an asset to every country where they bring their labor"4 There is no doubt that the Korean economy and the prosperity enjoyed by many Koreans today was facilitated by having migrant workers be part of its labor market. Korea has already witnessed and experienced firsthand the financial and economic benefits of having migrant workers as part of its labor force.

Beyond just being a possible labor source, studies now indicate that Korea will need to import 100,000 workers every year and a total of 1.5 migrant workers between 2030 and 2050 to maintain a similar economic structure and support its elderly population (Seol and Han 2004:46). With the number of migrant workers only expected to grow in years to come, the impact of the migrant worker on Korean society will no longer be economical, but also social, political, and cultural.

Many European countries today such as Germany are experiencing a great deal of social turmoil in the form of racial tensions stemming from the economic policies instituted in the 1960s that brought in many foreign migrant workers. The face of today's Korean society is rapidly changing from what it was 40 years ago. To preserve social order, the presence of the migrant worker and the long-term impact it wields must be addressed properly to facilitate social integration of the migrant worker into the Korean society. It would therefore seem

⁴ Statement by ILO Director General marking first UN designated International Migrant's Day, December 18, 2000.

imperative that the Korean government devise long-term strategies as to how it will address these issues through its policy reforms on migration.

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