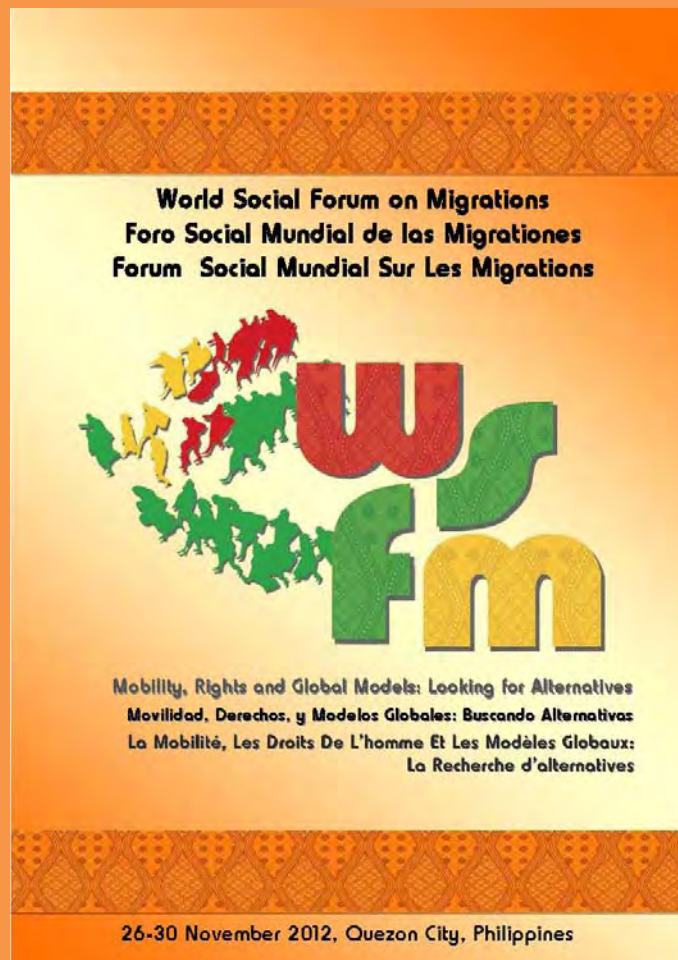


The Struggle of Trade Union and the Role of Migrant Rights Organisations for the Rights of Migrant Workers in Korea

Poster Session at the 5th World Social Forum on Migration
27 November 2012, Miriam College, Quezon City, Philippines

이주노동자 권리를 위한 노동조합의 투쟁과 이주인권단체의 역할
제5회 세계이주사회포럼 포스터세션 | 2012년 11월 27일 필리핀 퀘존시티 미리엄 컬리지



Migrants' Trade Union / Alliance for Migrants' Equality and Human Rights
Joint Committee with Migrants in Korea / The STIM Project at the University of Sydney

서울경기인천 이주노동자노동조합 / 이주노동자 차별철폐와 인권·노동권 실현을 위한 공동행동
외국인이주·노동운동협의회 / 시드니대학교 STIM 프로젝트

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The Struggle of Trade Union and the Role of Migrant Rights Organisations for the Rights of Migrant Workers in Korea

Poster Session at the 5th World Social Forum on Migration
Viewing Room 3 (the 2nd Floor), Sr. Mary Thomas Hall, Miriam College
27 November 2012, 11:00-13:00

Objective: To discuss the experiences and strategies of migrant trade union and migrant rights organisations for the achievement of migrant workers' labour rights in South Korea

Description: Migrant Trade Union was organised by migrant workers in Korea to achieve labour rights and right to stable residence. However, the Union was not legally recognised by Korean government, and has faced severe repression. Migrant rights NGOs (such as Alliance for Migrants' Equality and Human Rights, Joint Committee with Migrants in Korea, Migrant Rights Network) are mostly organised by non-migrant activists to protect migrants from human rights violations. These groups played the most significant role in the promotion and protection of migrant rights in Korea as well as the development of government policies on migration. This session will review their experiences of the last 10 years, and discuss their future strategies.

Agenda

- | | |
|---------------|---|
| 11.00 - 11.05 | Introduction of Poster Session and Speakers |
| 11.05 - 11.15 | An Overview of Migration Trends in South Korea
Chulhyo Kim (The University of Sydney) |
| 11.15 - 11.30 | The Experiences, Challenges and Prospects of Migrant Trade Union in Korea
Udaya Rai (Acting Chairperson, Migrants' Trade Union / Labour Migration Officer, Korean Confederation of Trade Unions) |
| 11.30 - 11:45 | The Struggles of Migrant Movement in Korea against Employment Permit System and challenges
Chung, Young Sup (Convener, Alliance for Migrants' Equality and Human Rights / Labour Commissioner, People's Solidarity for Social Progress) |
| 11.45 - 12.00 | The Conditions of Undocumented Migrants under Temporary Labour Migration Policies
Jason Lee (Director, Seoul Migrant Workers Center / Joint Committee with Migrants in Korea) |
| 12.00 - 12.10 | Challenges to Organizing Migrants
Sohoon Lee (The University of Sydney) |
| 12.10 - 12.55 | Open Discussion |
| 12.55 - 13.00 | Closing |

Co-organised by

Migrants' Trade Union / Alliance for Migrants' Equality and Human Rights (Korea)
Joint Committee with Migrants in Korea / The STIM Project at the University of Sydney

An Overview of Migration Trends in South Korea

Chulhyo Kim (The University of Sydney) / 김철효 (시드니대학교)

An Overview of Migration Trends in South Korea

Poster Session: The Struggle of Trade Union and the Role of Migrant Rights Organisations for the Rights of Migrant Workers in Korea

The 5th World Social Forum on Migration

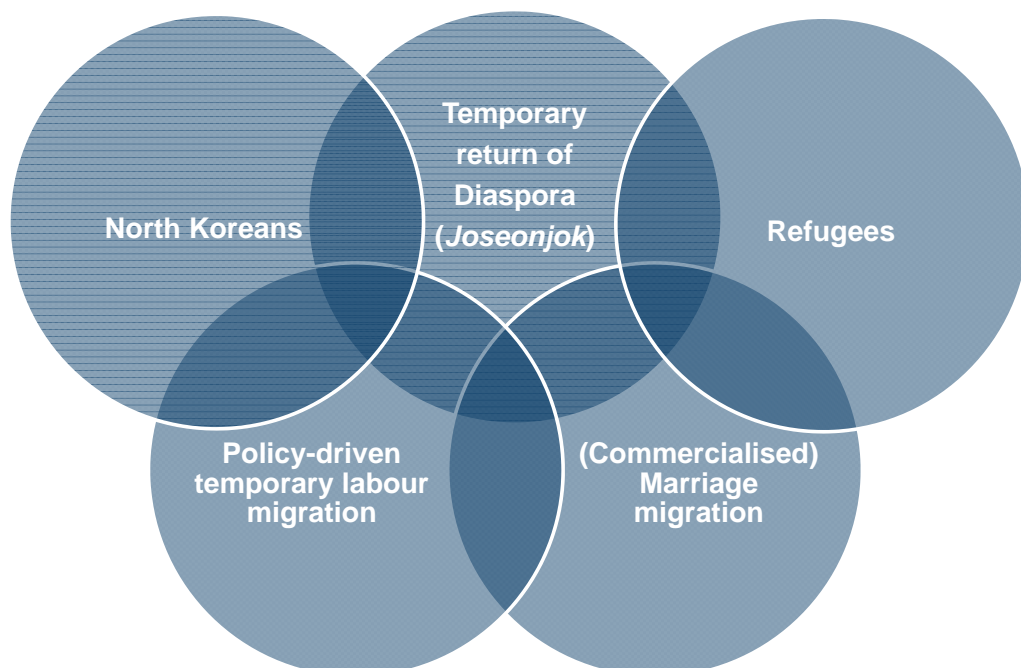
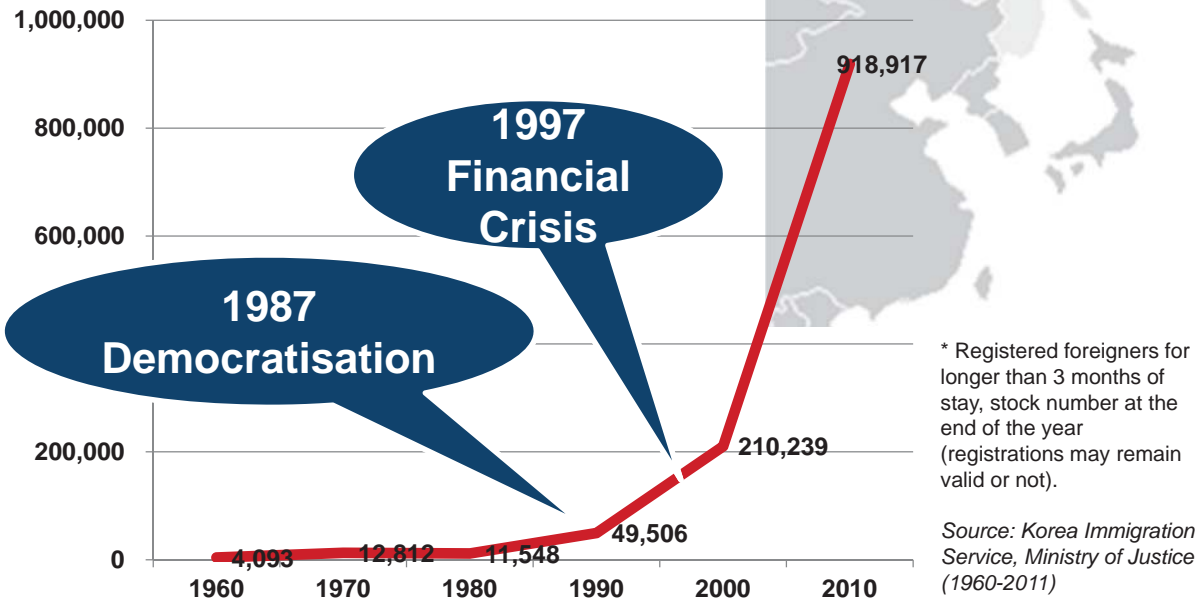
Miriam College, Manila, 27 November 2012

Chulhyo Kim | PhD Candidate
Department of Sociology and Social Policy | The University of Sydney

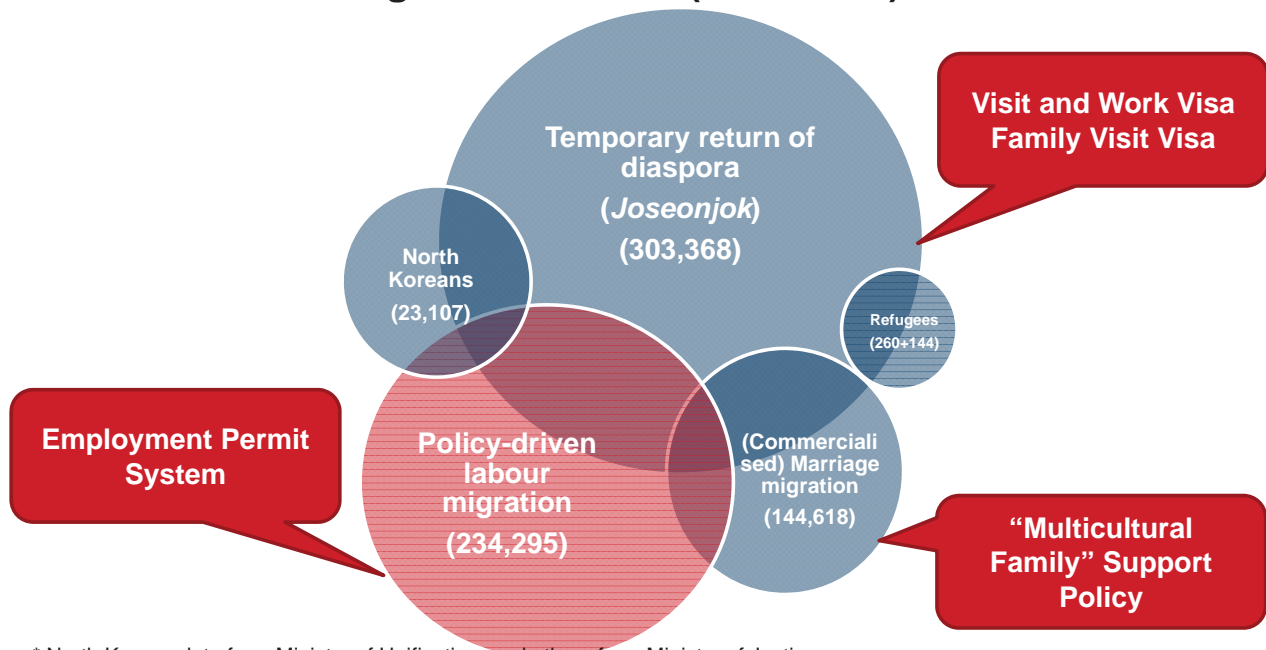


Who are coming to South Korea?

Immigration Trends in South Korea*, 1960-2010

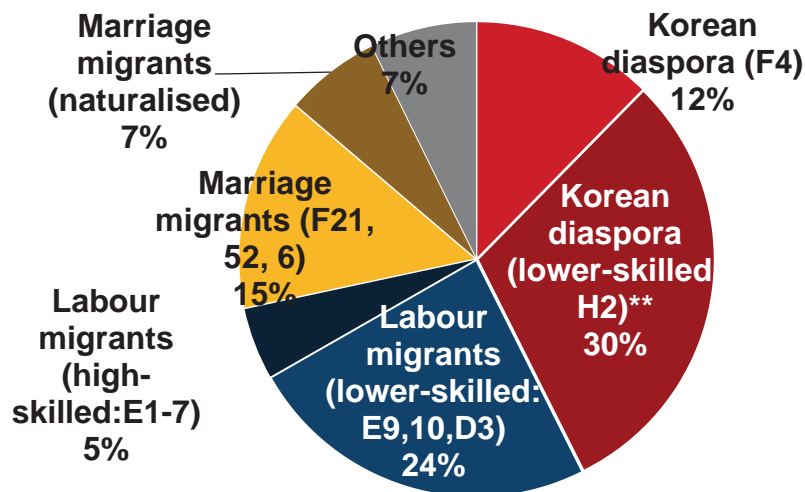


South Korea's Immigration Context (as of 2011)*



* North Korean data from Ministry of Unification, and others from Ministry of Justice

Composition of migrants in South Korea

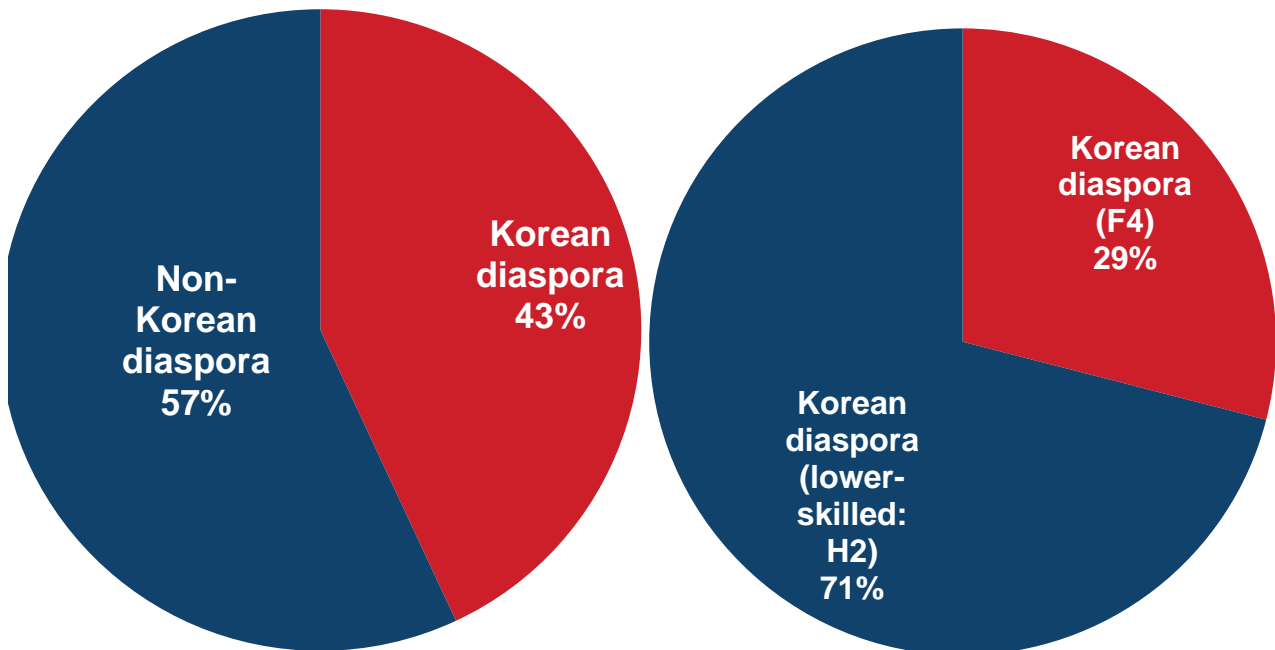


* Registered foreigners for longer than 3 months of stay (including marriage migrant), stock number at the end of the year (registrations may remain valid or not).

** In addition, there are more Korean diaspora with other visa type (including labour, marriage, student).

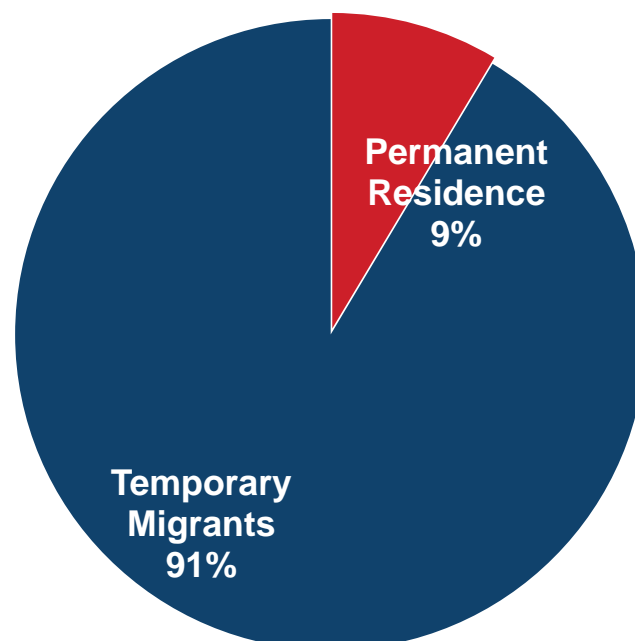
Source: Korea Immigration Service, Ministry of Justice (2012)

Temporarily Returning Diaspora



Data source: Ministry of Justice (Oct. 2012)

Temporary migration-oriented migration policy



Data source: Ministry of Justice (Oct. 2012)

Countries of Origin / Net migration stocks

Origin of Migrants	No. of Migrants	No. of Diaspora	Net migration	Origin of Migrants	No. of Migrants	No. of Diaspora	Net migration
Total	983,547	6,822,606	-5,839,059	Mongolia	21,592	2,323	19,269
China*	543,843	2,336,771	-1,792,928	Taiwan	21,195	3,158	18,037
Vietnam	109,626	84,566	25,060	Japan	20,563	912,655	-892,092
Philippines	39,938	115,400	-75,462	Sri Lanka	20,119	854	19,265
Indonesia	28,410	31,760	-3,350	Cambodia	15,053	4,772	10,281
Thailand	26,852	20,200	6,652	Nepal	12,303	374	11,929
USA	25,932	2,102,283	-2,076,351	Bangladesh	10,421	1,046	9,375
Uzbekistan	23,957	175,939	-151,982	Pakistan	8,484	592	7,892

Source: Korea Immigration Service (2011) and Ministry of Foreign Affairs and Trade (2011)

Countries of Origin (EPS)

Origin Country	Number	Origin Country	Number
Total	233,249		
Vietnam	60,025	Nepal	15,116
Indonesia	26,554	Mongolia	9,732
Sri Lanka	20,424	China	9,509
Thailand	18,196	Bangladesh	9,115
Cambodia	18,090	Myanmar	7,051
Philippines	16,922	Pakistan	4,215
Uzbekistan	15,600	Others	2,700

Source: Korea Immigration Service (2012)

Country of Origin (Low-skilled Diaspora)

Origin Country	Number
Total	255,293
China	243,386
Uzbekistan	9,638
Russia	1,247
Kazakhstan	613
Others	409

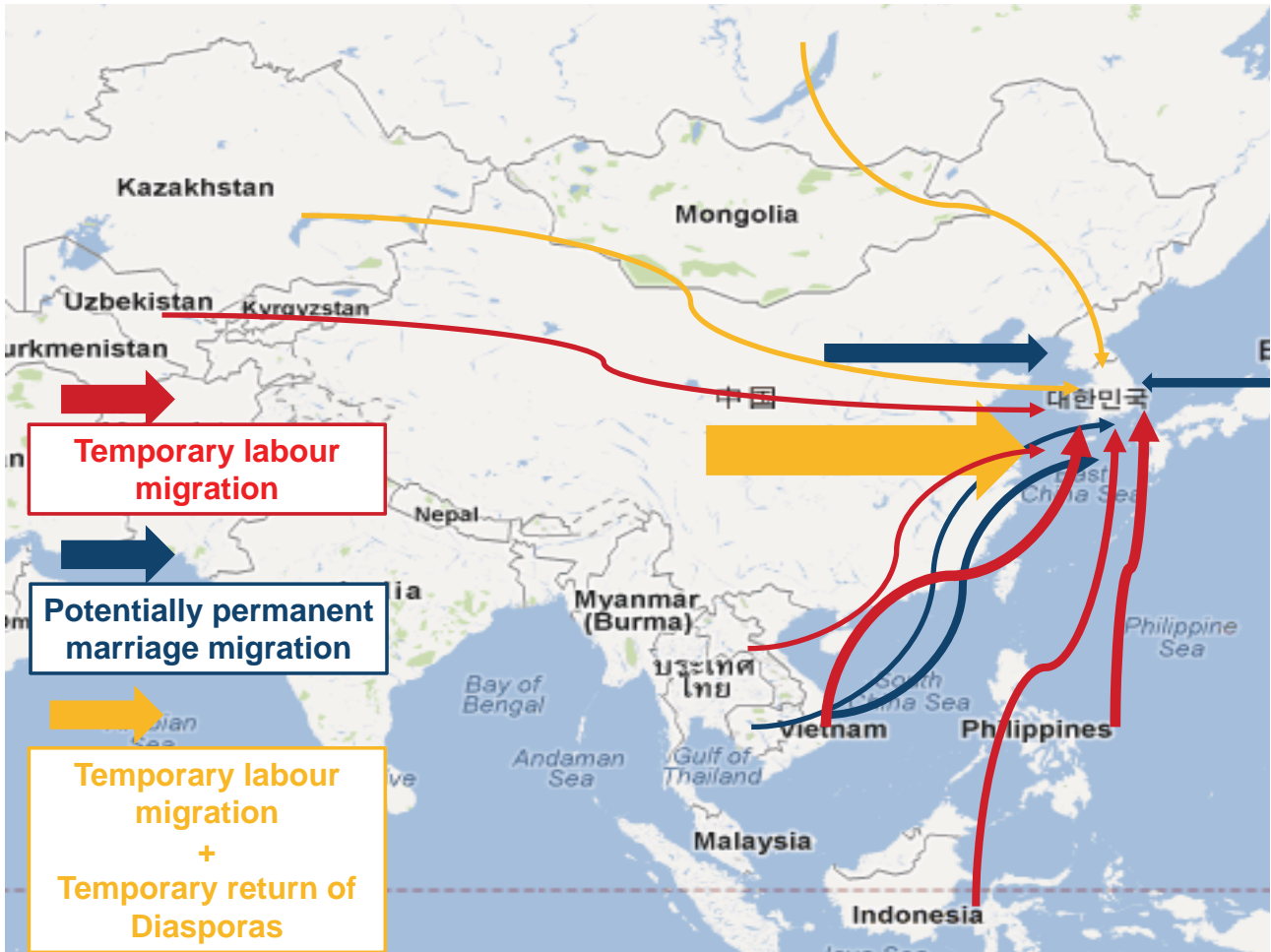


Source: Korea Immigration Service (2012)

Country of Origin (Marriage Migration)

Origin Country	Number	Origin Country	Number
Total	148,253		
China	63,328	Cambodia	4,605
Vietnam	39,115	Thailand	2,621
Japan	11,653	Mongolia	2,401
Philippines	9,504	Others	15,026

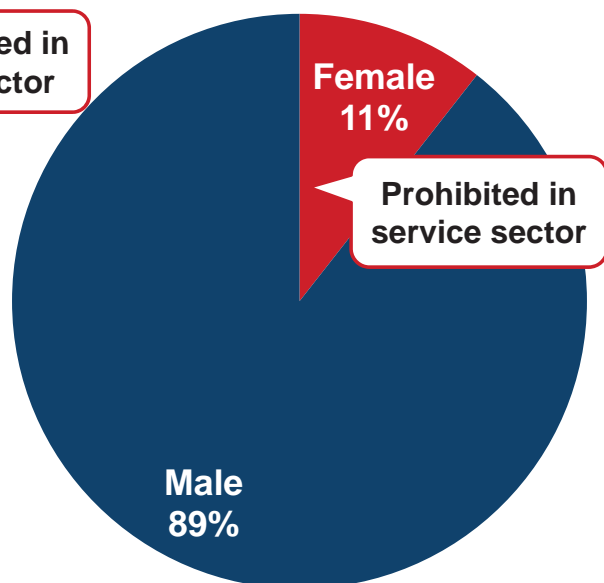
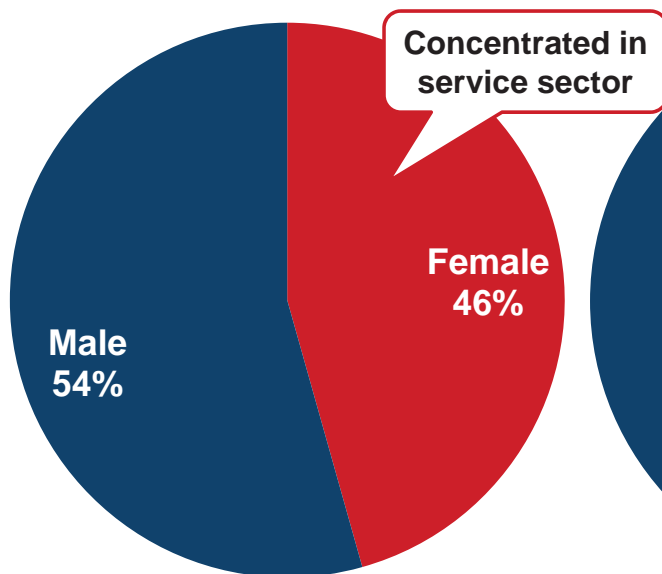
Source: Korea Immigration Service (2012)



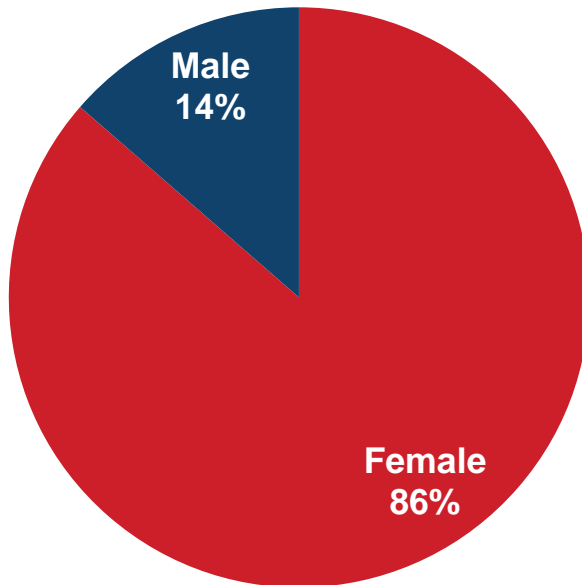
Race and gender matters!

Ethnic Koreans Work visa

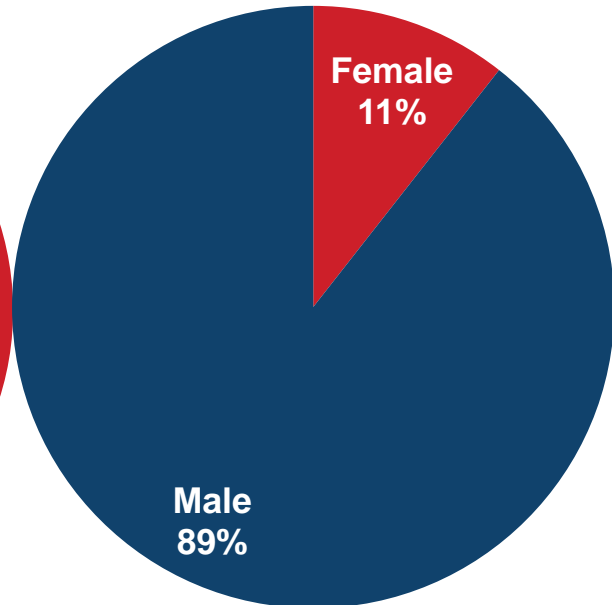
EPS Migration



Marriage Migration



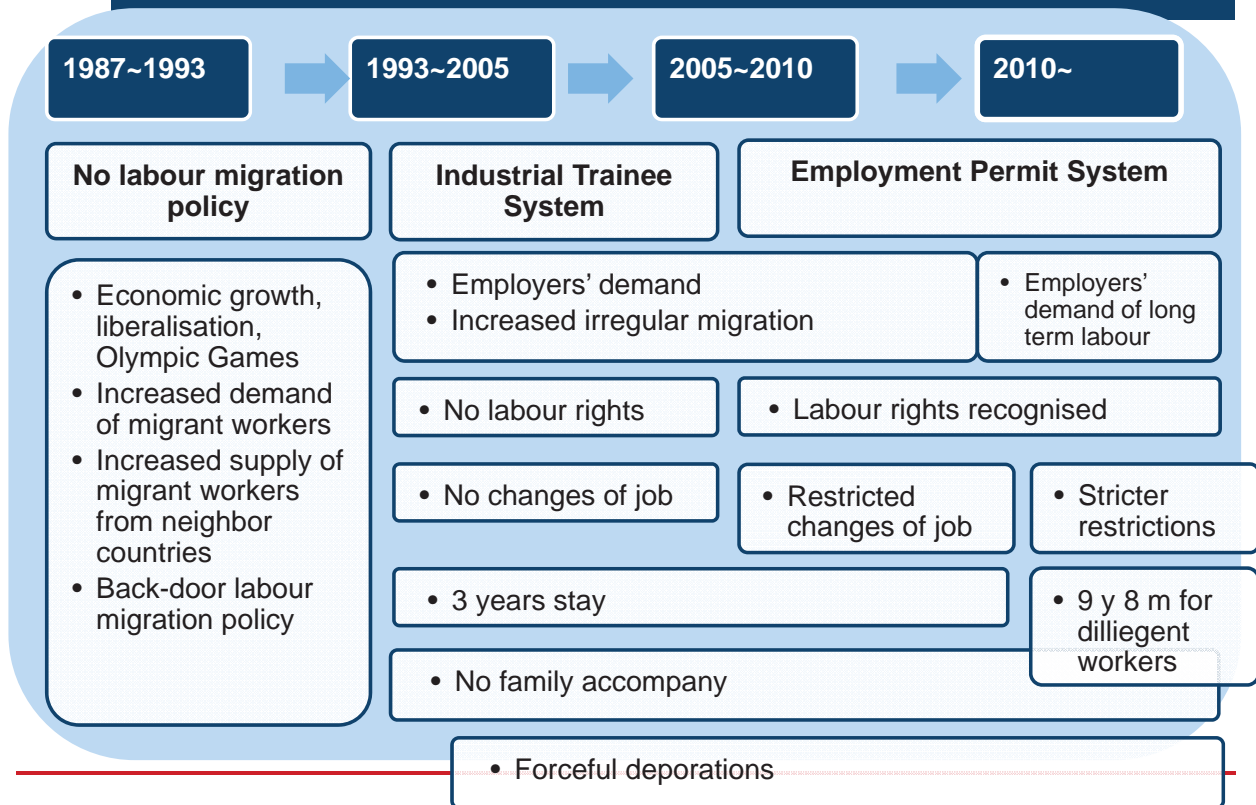
EPS Migration



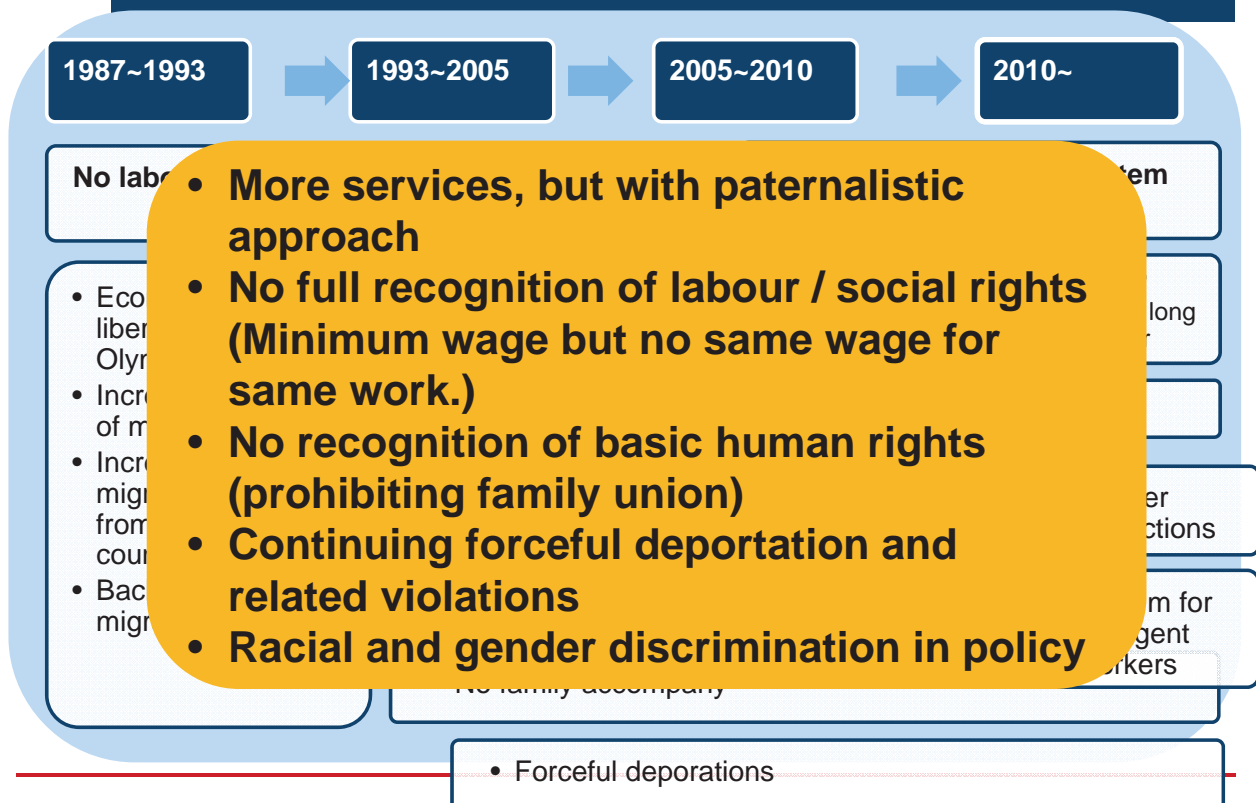
**What South Korean
government does?**



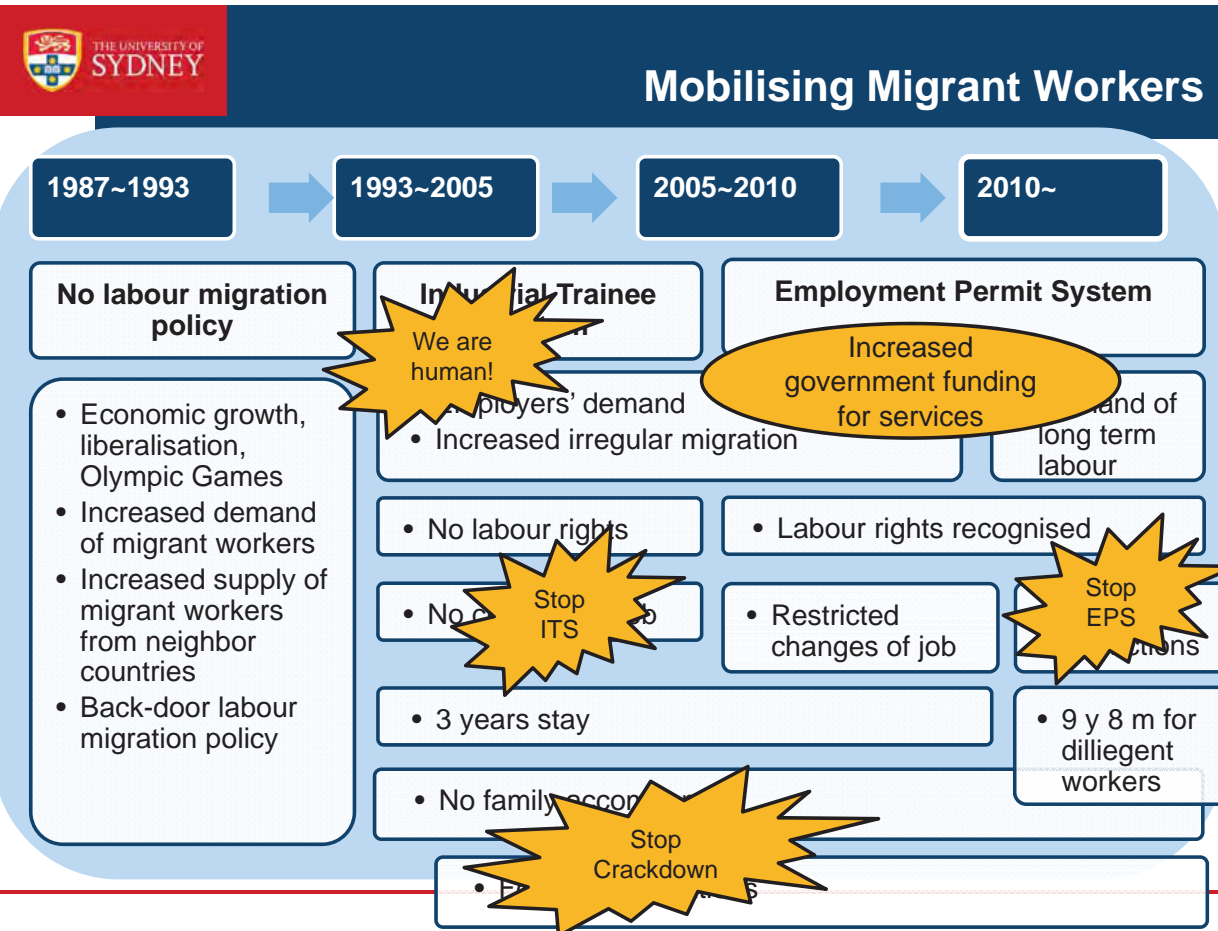
Development of labour migration policy



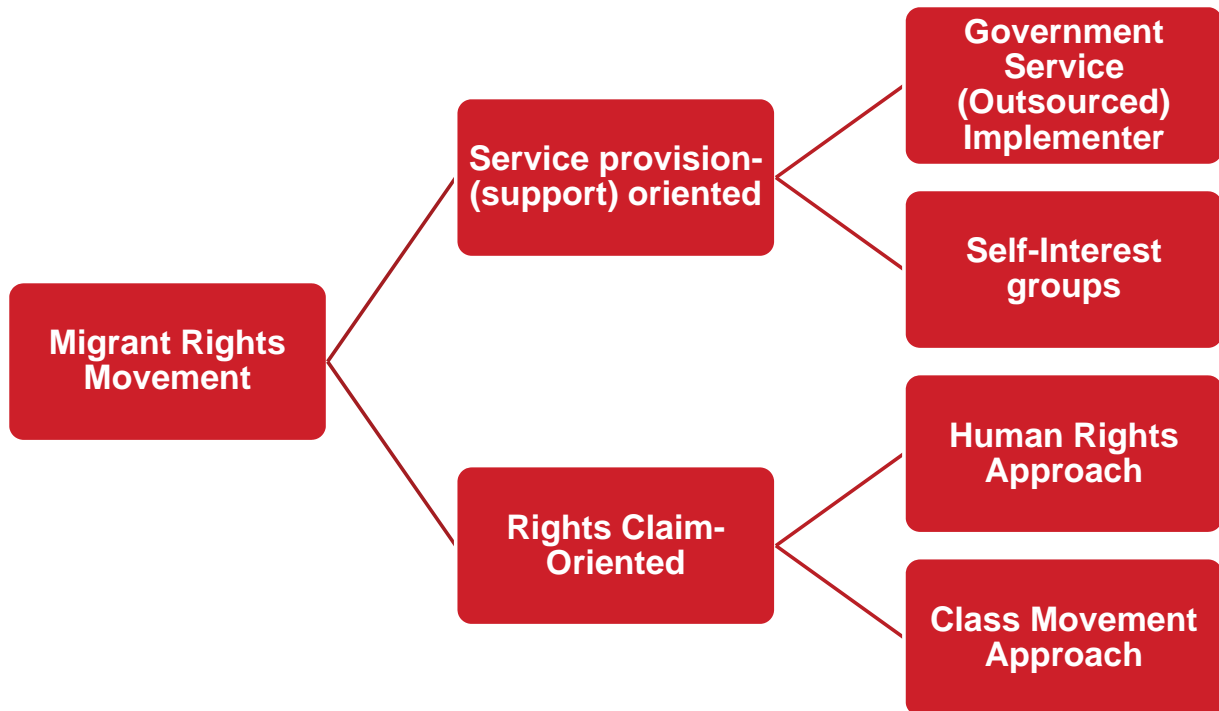
Development of labour migration policy



What the movement workers do?



Division of Migrant Rights Organisations



Division of Migrant Rights Organisations





Thank you for your attention.

Chulhyo Kim

ckim1306@uni.sydney.edu

The Experiences, Challenges and Prospects of Migrant Trade Union in Korea

Udaya Rai (Acting Chairperson, Migrants' Trade Union)

한국에서 이주노동자의 경험과 과제, 전망

우다야 라이 (이주노동자 비상대책위원장)

THE EXPERIENCES, CHALLENGES AND PROSPECTS OF MIGRANT TRADE UNION IN KOREA

UDAYA RAI

ACTING CHAIRPERSON, MIGRANTS TRADE UNION
(MTU)/ LABOUR MIGRATION OFFICER, KOREAN
CONFEDERATION OF TRADE UNIONS (KCTU)

HISTORY

- **Workers from Southeast and South Asia came to Korea started coming to Korea at first in early 90s.**
- **Korea did not have any laws on migration and the workers were *de facto* “undocumented” without any rights**
- **Delayed/non-payment of wages, long hours for very low wages, physical/verbal abuse, confiscation of passports and bankbooks were common issues.**

HISTORY

- Migrant workers started making our own voice in protest
- Our demands: “recognise us as workers; stop crackdown; protect three basic labour rights; implement working permit system
- Despite our demands, the government implemented Industrial and Technological Training Program in 1994. They wanted to deport all existing workers and bring in “trainees”, not calling them workers.
- The government did not recognise migrant workers as workers but called them illegal. They repressed migrant workers through crackdown and deportation.

HISTORY

- In 1994, when the trainee program was implemented, the migrant workers who lost their body parts during work staged a sit-in and was granted compensation
- In 1995, Nepali workers staged another sit-in, and demanded that the employers do not hit us, swear at us and compensate industrial injuries-- by wrapping bodies in steel chain.
- In 2004, the government abolished the trainee program and implemented the Employment Permit System (EPS) which limit the right to change workplaces to 3 times under employer's permit.

ESTABLISHMENT OF MTU

- In 2001, Equality Trade Union Migrant Branch (ETU-MB) established under Korean Confederation of Trade Unions (KCTU). Migrants Trade Union (MTU) established at the end of 381-day sit-in under migrant worker leadership.
- **Legal Struggle:** Not successful in the first court because they said a trade union where the majority of unionists are undocumented is illegal. Overturned in second court in February 2007; has been pending in the Supreme Court.
- **Targeted Raid:** Anwar Husein, MTU's first President and many in the leadership were targeted. Michel Catuira, who was our 5th and 6th president had his visa cancelled on made-up charges.

MTU ACTIVITIES

- Ceasing enforced crackdown and deportation, legalisation of undocumented migrant workers, abolition of Employment Permit System and implementation of Work Permit System.
- Any migrant worker can be a member and a leader. MTU membership has many EPS workers, undocumented workers and marriage migrants from countries like Bangladesh, Nepal, Philippines, Indonesia, Pakistan, Myanmar and Sri Lanka.
- Elections in annual general assembly; 6 regional branches; Finance from the membership fees

MTU GOALS

- **Legalisation of MTU**
- **Ceasing of enforced crackdown and deportation and legalisation of undocumented workers**
- **Implemented Working Permit System to allow free workplace transfer, long-term stay and family reunification**
- **Complete protection of labour rights, especially the right of association, collective bargaining and collective action**
- **Protection of migrant women**

MTU ACTIVITIES

Labour counselling

Education program for new MTU members, leaders, and general members on Labour Standard Act, Industrial accident and minimum wages and trade unions from around the world.

Monthly regional branch meetings

Campaign on ongoing issues and when other issues arise

Newsletter in English, Nepali and Korea

Rally for May Day and December 18 and others

Korean language class

ORGANISATION

- **Discussions and meeting to organise workers; 700 members at the moment**
- **Very difficult for migrant workers to stay on as unionists after they join, because they work long hours with little holidays and they are interested in making lots of money during their temporary stay.**
- **Also said that the employers and the government target unionists. Difficult to maintain communication when they move, especially when they go back to their countries.**

- **New rule on workplace changes in EPS: The government will not provide a list of employers that search workers, which means more difficulty for workers to choose and change workplaces.**
- **When out of work, we have to wait for the employers to contact, and if not chosen, our visa would be cancelled and we would be sent home.**

MTU'S FUTURE STEPS

- **Expanding MTU, not just in numbers but in capability, to be reached through education and training.**
- **Outreach by Korean trade unions: there are only limited number of migrant workers that MTU can include. Unions under KCTU should reach out to migrant workers in their workplaces.**
- **Solidarity with return migrant workers: KCTU already has an MOU with Nepali TU federation GEFONT to facilitate this. Many return unionists continue activities on migrant workers after they return, and we should expand and strengthen this bond.**

THANK YOU!

The Experiences, Challenges and Prospects of Migrant Trade Union in Korea

Udaya Rai (Acting Chairperson, Migrants' Trade Union)

History

There are more and more workers who move overseas for employment because the global financial crisis has made it difficult for many to find jobs in their countries in Asia and elsewhere. This is forced migration, not a free choice, caused by poverty, inequality and unemployment.

The capitalists think the migrant workers are cheap and disposable, and we are the first to go when the economy is bad. Workers from Southeast and South Asia came to Korea at first in 1985 and more in the early 90s.

The situations in Korea was not very good at the time, but the workers still came in hope for better wages compared to home. But Korea at the time did not have any laws on migration which made the migrant workers in actuality "undocumented"-- migrant workers did not have any rights at the time.

We worked in difficult circumstances. Delayed or non-payment of wages, long hours for very low wages were common, and the human rights of workers were violated in the employers' verbal and physical abuse and confiscation of passports and bank books. Industrial injuries were not compensated personally, let alone by insurance. Migrant workers had no means to fight because we did not know our rights.

The Korean government did not recognise us as workers but called us illegal. They repressed us through crackdown and deportation, and took away our right to work. At the time, all migrant workers other than what the government called "industrial trainees" were undocumented.

We started making our own voice to resist exploitation and repression by the government. We demanded: "Recognise us as workers; stop crackdown; Protect of three basic labour rights; and implement working permit system". Despite our struggle, the government did not listen to us and implemented Industry and Technology Training Program in 1994. They wanted to deport all existing workers and bring in "trainees", not calling them workers. This program endorsed modern slavery.

We had many meaningful struggle. In 1994, when the trainee program was implemented, the migrant workers who lost their body parts during work staged a sit-in and was granted compensation by industrial insurance. In 1995, Nepali workers staged another sit-in, and demanded that the employers do not hit us, swear at us and compensate industrial injuries-- we protested by wrapping our bodies in steel chain. But the government did not listen to us for a long time.

In 2004, the government abolished the trainee program and implemented the Employment Permit System (we call this EPS). But this system also has many problems. The biggest problem is that we can only change our workplaces 3 times and each time requires the employer's permit.

Establishment of MTU

In 2001, Equality Trade Union Migrant Branch was established under Korean Confederation of Trade Unions (KCTU). We did sit-in for 381 days to protest EPS and forced deportation. Migrants Trade Union (we call it MTU) was established at the end of this long sit-in. Equality Trade Union had Korean executives, but in MTU, we, migrant workers, were leaders.

The government called MTU an illegal union. We pursued legal action to legalise our labour rights but was not successful in the first court because they said a trade union where the majority of unionists are undocumented is illegal. But the second court overturned this, saying all migrant workers are workers, whether legal or illegal. That was February 2007 and it has been seven years since the case has been pending in the Supreme Court. ITUC and KCTU have appealed to the UN and ILO on this issue, who issued multiple recommendations to recognise our legal status. Rather than listening to the voices, the government targeted our MTU leaders and forcibly deported many. Anwar Husein, MTU's first President and many in the leadership were targeted. Michel Catuira, who was our 5th and 6th president had his visa cancelled on made-up charges.

MTU Activities

MTU works on issues of labour & human rights of migrant workers, ceasing enforced crackdown and deportation, legalisation of undocumented migrant workers, abolition of Employment Permit System and implementation of WPS. Any migrant worker can be a member and a leader. MTU membership has many EPS workers, undocumented workers and marriage migrants from countries like Bangladesh, Nepal, Philippines, Indonesia, Pakistan, Myanmar and Sri Lanka. MTU elects leadership in its annual general assembly and has 6 branches around the country. The finance comes from the membership fees.

Our goals are:

- Legalisation of MTU
- Ceasing of enforced crackdown and deportation and legalisation of undocumented workers
- Implemented Working Permit System to allow free workplace transfer, long-term stay and family reunification
- Complete protection of labour rights, especially the right of association, collective bargaining and collective action
- Protection of migrant women

For these goals we do:

1. Labour counselling
2. Education program for new MTU members, leaders, and general members on Labour Standard Act, Industrial accident and minimum wages and trade unions from around the world.
3. Monthly regional meetings across the country
4. Campaign on ongoing issues and when other issues arise
5. Newsletter in English, Nepali and Korean
6. Rally for May Day and December 18 and others
7. Korean language class
8. Computer skills class

Organisation of migrant workers

We run discussions and meetings in different places every week to listen to issues that migrant workers have. Migrant workers are usually very busy and do not have much time for trade union activities. We have about 700 members at the moment who usually join the union in one of three ways:

1. First many join after our counselling on their labour issues.
2. They also join by national/ethnic communities. There are many national communities and we encourage the community leaders to join the union.
3. Some also follow their unionist friends and acquaintances to come to us.

It is very difficult for migrant workers to stay on as unionists after they join, because they work long hours with little holidays and they are interested in making lots of money during their temporary stay. They also say that the employers and the government target unionists. It is also difficult to maintain communication when they move, especially when they go back to their countries.

MTU's Struggle

In addition to many struggles we have lead that I mentioned, the government recently announced that the will no longer provide a list of employers that seek workers to migrant workers as of this August. This has made it more difficult for workers to choose and change workplaces. When we are out of work, we have to wait for the employers to contact us. If we are not chosen, our visa would be cancelled and we would be sent home. We have been actively organising to protest this unreasonable measures, and almost 1000 migrant workers gathered at a rally in September. We will not stop until we abolish EPS and get the Working Permit System.

MTU's Future Steps

MTU belongs to Korean Confederation of Trade Unions. KCTU also has other unions where Korean and migrant workers belong together. We are small, but we believe we have brought meaningful changes to the perception of unionists and leadership of KCTU.

Here are our organisational future steps:

1. Expanding MTU, not just in numbers but in capability, to be reached through education an training.
2. Outreach by Korean trade unions: there are only limited number of migrant workers that MTU can include. Unions under KCTU should reach out to migrant workers in their workplaces.
3. Solidarity with return migrant workers: KCTU already has an MOU with Nepali TU federation GEFONT to facilitate this. Many return unionists continue activities on migrant workers after they return, and we should expand and strengthen this bond.

Thank you for listening.

한국에서 이주노조의 경험과 과제, 전망

우다야 라이 (이주노조 비상대책위원장)

역사

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자본가들은 이렇게 이주노동자들을 값싸고 언제든지 해고할 수 있는 노동자로 생각합니다. 경제위기가 오면 이주노동자들이 가장 먼저 해고됩니다. 전 세계 자본가들이 이런 식으로 이주노동자들을 착취하고 있습니다. 일자리를 찾아서 다른 나라로 이주하는 이주노동자들의 숫자가 점점 늘어나고 있습니다. 이 과정에서 동남아 이주노동자들도 일자리를 찾아 한국에 들어오기 시작했습니다. 그 시점은 최초로 1985년도 경에 시작해서 90년대 초부터 본격적으로 이주노동자들이 들어왔습니다.

그 때는 한국의 상황이 그렇게 좋진 않았지만 그래도 본국보다 월급을 더 받기 때문에 이주노동자들이 많이 들어왔습니다. 하지만 한국에는 이주노동자를 위한 법이나 대책이 없어서 이주노동자들에게는 아무런 권리가 없었고 거의 대부분 미등록이었습니다.

이주노동자들은 지극히 어려운 상황에서 노동할 수밖에 없었습니다. 사장들은 이주노동자들에게 제대로 임금을 지불하지도 않았고 장시간에 저임금 노동을 시키면서, 폭행과 욕설, 여권과 통장 압수 등 인권유린을 했습니다. 열악한 환경에서 노동하면서 다치는 이주노동자들도 늘어났습니다. 다쳐도 산재는 물론이고 개인적인 보상을 포함하여 아무것도 받지 못하였습니다. 그리고 이주노동자들도 자기 권리에 대해 잘 알지 못하고 있어서 당하기만 했습니다.

정부는 이주노동자를 노동자로 인정하지 않고 불법체류자로 몰아세웠고 단속해서 강제추방하고 탄압하기 시작했습니다. 정부는 이주노동자들의 일할 권리를 빼앗았습니다. 그 당시에는 현지법인연수생외에는 모든 이주노동자들은 미등록이었습니다.

이주노동자들은 한국정부와 사장들의 착취와 탄압을 참지 못해 자기 목소리를 내기 시작했습니다. “우리를 노동자로 인정하라, 단속 추방 중단하라, 노동 3 권 보장하라, 노동 허가제를 실시하라!” 라고 하면서 투쟁을 시작했습니다. 하지만 한국 정부는 이주노동자들의 요구를 받아들이지 않았습니다. 결국 정부는 사업주들의 이익을 위해 1994 년도에 산업연수생 제도를 실시했습니다. 이는 산업연수생제도를 실시하기 전에 한국에 들어온 이주노동자들을 모두 강제추방하고 새로 데리고 온 노동자들은 노동자가 아니라 연수생 신분으로 데리고 오기 위한 목적이었습니다. 이 제도에서 실제로 이주노동자들이 일하면서도 노동자로서 아무런 권리가 주어지지 않았습니다. 이 제도는 말 그대로 노예 제도였습니다. 특히 이 제도에서는 송출 비리가 많이 발생했습니다. 이 제도에 반대해 이주노동자들이 정부를 상대로 또다시 투쟁을 시작했습니다.

특히 산업연수생제도가 실시되던 94 년도에 팔 잘리고 다리 잘린 산재 이주노동자들이 최초로 경실련 강당에서 농성을 해서 승리하여 산재보상을 받았습니다. 95 년에는 명동성당에서 네팔연수생들이 “우리는 노예가 아니다. 우리를 때리지 말라! 욕하지 말라! 산업재해를 인정하라!” 와 같은 요구사항을 걸고 온몸에 쇠사슬을 두르고 농성을 했습니다. 하지만 정부는 제도 개선보다는 이주노동자를 산업연수생과 그렇지 않은 노동자로 분리하면서 미등록 노동자를 계속 추방했습니다. 산업연수생제도는 산업재해 불인정의 문제, 퇴직금 미지급의 문제, 인권유린 등 많은 문제를 안고 있었습니다. 출발부터 이런 문제를 안고 있었기 때문에 인권단체와 이주노동자들이 계속 반대했습니다. 특히 이주노동자들은 노동허가제를 실시하라고 주장했습니다. 이주노동자들의 계속되는 반대에 정부는 3년 연수생제도를 ‘2년 연수생+1년 노동자’ 로 바꾸었습니다(이후에는 1년 연수생+2년 노동자). 그리고 2004년에는 산업연수생제도 대신 고용허가제로 제도를 바꾸었습니다. 이 제도에서는 최저임금이 적용이 되었지만 그 밖의 권리는 보장 되지 않습니다. 3번 밖에 직장 이동이 불가능하고, 이동할 때마다 사장의 허락을 받아야 합니다. 또한 3년 이상 일 하려면 사장의 고용 허가를 받아야 했습니다. 이 제도 역시 많은 문제가 있습니다.

이주노동조합(MTU) 설립과 탄압

그 동안 이주노동자들은 노동자임에도 불구하고 노동자의 기본적인 권리를 보장받지 못했습니다. 이주노동자들이 자기의 권리를 실현하면서 노동자답게 살기 위해서는 노조활동과 노동조합의 필요성이 높아졌습니다. 2001 년도에 민주노총 소속으로 평등노조 이주지부가 건설되었습니다. 이를 중심으로 노조활동이 시작되었습니다. 2003년에 평등노조 이주지부에서는 노무현정부의 고용허가제실시와 강제추방에 반대하기 위해서 명동성당에서 381 일간의 농성투쟁을 벌여냈습니다. 농성투쟁 하는 노동자들이 중심이 되어 2005년 4월에 이주노동자들 스스로가 이주노조를 설립했습니다. 평등노조 이주지부에서는 한국인들이 간부가 될 수 있었으나 이주노조에서는 이주노동자만 조합원과 간부가 될 수 있습니다.

하지만 정부는 이주노동자들은 노조활동 할 권리가 없다고 하면서 이주노조를 불법노조라고 규정하고 있습니다. 따라서 이주노조에서는 노동부를 상대로 이주노조를 합법화하라는 소송을 냈었고 1심

재판부인 서울행정법원에서는 미등록 노동자들이 대다수라는 이유로 노동조합을 인정하지 않았습니다. 하지만 2007년 2월 서울고등법원에서는 등록과 미등록을 구분하지 않고 노동자로 인정하기에 노조를 설립할 권리가 있다는 항소판결이 나온바 있습니다. 노동부는 이를 인정하지 않고 또다시 대법원에 상고를 한 뒤로 아직 그 판결이 나오지 않은 채 6년 가까이 흘렸습니다. 이 사안에 대해 국제노총과 민주노총이 ILO, UN 등에 제소했고 ILO와 UN은 이주노조를 인정하라고 한국정부에 여러 차례 권고했습니다. 하지만 이주노조의 간부와 조합원들은 표적 단속이 되어 강제 추방을 당해 왔습니다. 초대 위원장 아느와르 후세인을 비롯해 3, 4대 위원장과 지도부들이 표적단속되어 대부분 강제추방을 당했습니다. 한국정부는 5, 6대 미셸 전 위원장도 노조활동을 했다는 이유로 위장취업 혐의를 씌워서 비자를 취소하였습니다.

이주노조의 활동

정부에서 이주노조를 인정하지 않고 있지만 우리는 이주노동자들의 열악한 노동환경을 개선하기 위해 여러 가지 활동을 하고 있습니다. 이주노조는 이주노동자들의 노동권과 인권 보장, 단속 추방 중단과 미등록 이주노동자 합법화, 고용허가제 폐지와 노동허가제 쟁취 등을 위한 활동을 하고 있습니다. 이주노조에는 모든 이주노동자들이 가입할 수 있고 간부가 될 수 있습니다. 따라서 이주노조에는 고용허가제 노동자, 미등록 이주노동자, 결혼 이민자 등 다양한 체류자격을 가진 이주노동자들이 조합원으로 함께 하고 있습니다. 현재 방글라데시, 네팔, 필리핀, 인도네시아, 파키스탄, 미얀마, 스리랑카 등의 노동자들이 조합원으로 가입해 있습니다. 이주노조는 1년에 1회 전체 총회와 지역총회를 통해 간부를 선출해 노조 지도부를 구성하고 있습니다. 이주노조는 현재 의정부, 서울, 안산, 오산, 수원, 인천 등 6개의 지부가 있습니다. 이주노조의 가장 큰 특징은 이주노동자들이 주체가 되어 스스로의 권리 실현을 위해 노동조합을 만들고 운영하는 것입니다. 이주노조는 조합원들이 납부하는 조합비로 운영됩니다.

이주노조의 주요 목표는 다음과 같습니다.

- 이주노조 인정과 합법화.
- 단속추방 중단과 미등록 이주노동자 합법화.
- 고용허가제를 노동허가제로 전환(사업장 이동의 자유보장, 장기 체류허용, 가족동반 허용)
- 완전한 노동 3권 보장(단결권, 단체교섭권, 단체행동권)
- 여성 이주민의 권리 보장.

이주노조의 조직 활동은 다음과 같습니다.

1. 노동상담: 이주노조는 노무사를 통해 이주노동자들의 임금체불, 사업장 이동, 퇴직금 등 다양한 문제에 관한 노동상담과 권리구제 활동을 하고 있습니다.

2. 교육 프로그램: 이주노조는 신입 조합원 교육, 집중 간부교육, 지부 및 분회에서 조합원 교육을 진행합니다. 또한 이주노동자 공동체를 대상으로 한 근로기준법, 산업재해, 최저임금법 교육과 각 나라 이주노동자를 대상으로 노동조합과 노조활동에 대한 교육을 하고 있습니다.

3. 지역 모임: 이주노조의 각 지역에 있는 지부에서 월 1 회 조합원 모임을 하여 활동 상황을 보고하고 공유합니다.

4. 캠페인: 이주노조는 이주노동자들이 자신의 권리를 인정받고 안전하게 살아가기 위한 모든 투쟁을 이주노동자과 같이 하기 위해 노력 하고 있습니다. 이주노조는 한국에서 벌어지고 있는 주요 사건과 쟁점에 대하여 이주노동자들에게 알리고 그 투쟁에 결합하기 위해 조직화 활동을 합니다. 이주노조는 이주노동자들이 사업주로부터 받고 있는 차별을 없애기 위한 투쟁, 정부의 탄압에 맞선 투쟁, 단속추방을 중단시키고 미등록 이주노동자 합법화를 위한 투쟁, 고용허가제를 폐지하고 노동허가제 쟁취 투쟁, 이주노동자 권리를 위한 거리 캠페인, 최저임금 인상을 위한 캠페인, 이 외에도 난민과 이주여성들, 한국 노동자들의 권리 쟁취를 위한 투쟁에 연대하고 있습니다.

5. 노조 뉴스레터 발행: 이주노조에서는 월 1 회 이주노조 활동소식을 담은 소식지를 발행 하고 있습니다. 현재 영어, 네팔어, 한국어로 발행하고 있습니다.

6. 집회: 이주노동자들의 권리 쟁취를 위해 한국에 있는 노동조합과 연대하여 여러 투쟁들을 하고 있습니다. 이주노조는 5 월 1 일 노동절 대회, 12 월 18 일 세계 이주노동자의 날 집회를 매년 개최하고 있습니다. 이를 통해 이주노동자들의 요구를 정부에 전달합니다.

7. 한글 교실: 2009 년부터 대학생들이 자발적으로 운영하고 있는 레인보우스쿨에서 이주노동자를 대상으로 한국어를 가르치고 있습니다. 현재 세 곳에서 한글 교실을 운영하고 있습니다.

8. 컴퓨터 교실: 이주노조에서는 사무실에 컴퓨터 교실을 설치해서 이주노동자를 대상으로 컴퓨터교육을 하고 있습니다.

이주노동자 조직화

이주노조는 이주노동자들을 보다 많이 조직하기 위해서 주말마다 각 지역에 가서 이주노동자들과 회의나 간담회를 합니다. 지역에 모여서 현안 이슈에 대해 토론하고 의견을 받습니다. 이주노동자들은 한국에 근무할 기간이 짧기 때문에 노조활동보다는 일하기가 바쁩니다. 그래도 우리가 노조활동과 노동조합에 중요성에 대한 교육과 홍보를 계속해서 하고 있습니다. 현재까지 이주노조에는 많은 이주노동자들이 조합원으로 가입되지는 않고 있습니다. 현재 700 명 정도가 조합원으로 등록되어 있습니다.

이주노조의 조직화 방식은 다음과 같습니다.

1. 상담을 통한 조직화: 임금, 퇴직금, 산재, 사업장 이동, 비자문제 등 많은 문제들에 대해 이주노동자들이 상담을 하러 옵니다. 상담을 하면서 이주노조에 대하여 설명하고 조합원으로 가입을 받습니다.
2. 이주노동자 공동체를 통한 조직화: 나라별로 이주노동자 공동체들이 활동을 하고 있습니다. 그러한 공동체들과의 간담회, 리더들과의 토론을 통해 조합원으로 조직합니다.
3. 조합원을 통한 조직화: 기존의 조합원들이 친구들이나 아는 사람들에게 노조를 소개해서 가입합니다. 조합원을 조직하는 것보다 유지하고 조합활동에 계속 참여하도록 하는 것이 어렵습니다. 이주노동자들이 매일 12 시간 이상 노동을 하고 있어서 일요일 아니면 시간이 없고, 체류기간이 짧아서 우선 돈을 벌려고 하기 때문입니다. 또한 노조활동을 하면 정부나 회사에 찍힌다고 무서워하기도 합니다. 지역을 이동하거나 본국에 돌아가면 연락하기도 어렵습니다.

이주노조의 투쟁

이주노조는 이주노조의 목표를 달성하기 위해 계속해서 투쟁하고 있습니다. 하지만 그때그때 발생하는 정부의 탄압에 대해서도 투쟁하고 있습니다. 2005 년~2008 년 사이에는 주로 지도부와 간부활동가들에 대한 단속추방에 대한 반대투쟁을 전개했습니다. 여러 번의 농성투쟁을 했습니다. 2010 년에는 G20 정상회의를 빌미로 한 이주노동자 단속과 범죄자화에 맞서 농성투쟁을 했습니다. 일상적으로는 이주노동자를 탄압하고 착취하는 악질 사업주들을 대상으로 하는 투쟁을 하였습니다.

또한 고용허가제에 대한 투쟁도 지속적으로 전개하고 있습니다. 고용허가제에서 이주노동자들이 자유롭게 사업장 변경하지 못합니다. 그런데도 고용노동부는 이주노동자들이 사업장을 많이 변경했다는 이유로 이주노동자에게 구인업체 명단을 제공하는 것을 8 월 1 일부터 중단했습니다. 사업장 변경하는 이주노동자들의 명단을 구인업체에 준다는 것입니다. 이주노동자들은 지금 회사를 직접 고르지 못하고 사업주들의 선택을 받아야 합니다. 선택을 받지 못하면 본국으로 되돌아 가야 합니다. 고용노동부는 이주노동자들의 사업장 선택의 권리를 박탈하고 있습니다. 이 지침이 철회되지 않는다면 이주노동자들은 아주 열악한 근로 조건에서 일할 수밖에 없습니다. 그래서 이주노조는 이 지침을 철회하기 위해 7 월 16 일부터 적극적으로 투쟁을 하고 있으며 9 월에는 전국에서 1000 여명에 가까운 이주노동자들이 집회에 모이기도 했습니다. 이주노조는 앞으로 이 지침폐지투쟁을 시작으로 고용허가제를 폐지하고 노동허가제를 쟁취할 때까지 투쟁을 멈추지 않을 것입니다.

이주노조의 과제와 전망

이주노조는 민주노총에 소속되어 있습니다. 이주노조는 이주노동자들로만 구성되어 있는 노조인데, 민주노총 소속 노조 가운데 한국인과 이주노동자가 함께하는 노조도 일부 있습니다. 아직은 미약합니다. 그래도 조금씩 민주노총 소속 노조들의 인식이 바뀌고 있습니다. 이주노조는 내국인 노동자와 이주노동자의 연대를 실현해야 하는 중요한 임무도 가지고 있습니다.

몇 가지 조직적 과제와 전망은 다음과 같습니다.

1. 이주노조 조직화 확대와 참여 확대, 활동가 육성: 이주노조를 지속적으로 조직하고 확대해야 합니다. 특히 숫자를 늘리는 것을 넘어 조합원들의 활동력을 높여야 합니다. 이를 위해서는 교육을 지속적으로 강화해야 하고, 간부 활동가들을 육성할 수 있어야 합니다.
2. 한국 노동조합의 이주노동자 조직화 노력: 이주노조가 포괄할 수 있는 노동자들은 제한적입니다. 전국 각지에 흩어져 있는 이주노동자들이 노동조합으로 조직화되기 위해서는 민주노총 소속 노동조합들의 노력이 필요합니다. 이주노조는 그 필요성을 지속적으로 제기하고 촉구할 것입니다.
3. 본국 노동조합, 귀환한 이주노동자들과의 연대: 민주노총에서는 이미 네팔노총(GEFONT)와 협약을 체결하여 활동가를 채용하고 있습니다. 또한 한국에서 일하다가 추방되거나 본국으로 돌아간 이주노동자들이 본국에서도 이주노동자 관련 활동을 하고 있습니다. 이러한 연대를 확대하고 강화해야 할 것입니다.

이주노조는 앞으로도 이주노동자들의 권리 쟁취와, 모든 노동자들의 단결과 연대를 위해 노력할 것입니다.

The Struggles of Migrant Movement in Korea against Employment Permit System and challenges

Chung, Young Sup

(Convener, Alliance for Migrants' Equality and Human Rights

/ Labour Committee Chair, People's Solidarity for Social Progress)

고용허가제에 대한 한국 이주운동 진영의 투쟁과 과제

정영섭 (이주공동행동 소집자, 사회진보연대 노동위원장)



The Struggles of Migrant Movement in Korea against Employment Permit System and challenges

Jung, Young Sup

(Convener, Alliance for Migrants' Equality and Human Rights / Labor Committee Chair, People's Solidarity for Social Progress)

Background of the introduction of the Employment Permit System

- South Korea was well known to international society after 1986 Asian Games and 1988 Olympic Games.
- The increase of the salaries of Korean manufacture workers after 1987 Great Struggles of Workers. The lack of low-wage, low-class labor force due to the booming stage of Korean economy.
- The establishment of top-down outsourcing system, that is *Chaebol* (family conglomerate)-oriented. Economy incorporated into neo-liberal globalization.

Background of the introduction of the Employment Permit System

- With the momentum of 2002 World Cup Football Games, South Korean government attempted to improve the image of country.
- In 2004, Employment Permit System was introduced to decrease the rate of undocumented stays in large and to supply low-income and flexible labor force. The liberal government of Roh, Moo Hyun was also a factor.
- The neo-liberal flexibilisation of labor promoted the expansion of informal work in the country

The characteristics of the Employment Permit System and the continuing and detrimental revisions of the System

- The EPS is basically about giving employers 'the rights to hiring'. Thus, the System basically gives employers all authorities about employment.
- It allowed workers the short stay of three years, but prohibited the change of workplace in principle. Migrant workers could not practice their labor rights such as the right to organize union in reality.

The characteristics of the Employment Permit System and the continuing and detrimental revisions of the System

- Three major deteriorations of the System.
- First, the EPS originally allowed migrant workers 3+3 years of work (if an employer re-hires a worker after 3 years, he or she may work 3 more years after 1 months of overseas stay. But, the new programme allows 3 years + 1 year 10 months of work (one month pause.) This is a reflection of employers' demand on the 1-month pause.

The characteristics of the Employment Permit System and the continuing and detrimental revisions of the System

- Second, the System initially required 1 year term contracts for migrant workers (1+1+1), but was changed to allow 'free contract within 3 years'.
- Third, the System originally provided migrant workers with the list of companies offering jobs, but stopped it. This in practice deprives migrant workers from right to choose their work place.

The problems of Employment Permit System

- Short contract period: currently 3 year + 1 year and 10 months
- Labor exploitation and repression: Racial discrimination and human rights violation in work place
- Extreme limitation to the change of work place: Migrant workers cannot freely change their work place.
- Low-wages and long work-hour: Migrant workers' wages are fixed to the minimum wage. Migrants work more than twelve hours per day average. They cannot enjoy appropriate holidays.

The problems of Employment Permit System

- Industrial accident: Higher rate of industrial accident and death caused by industrial accident than that of Korean workers.
- No possibility to transfer to long-term residence.
- The occurrence of undocumented migrants continues.
 - Migrant workers are protected by social welfare system.

→ Thus, the EPS is an Asia-wide rotation system of labor exploitation. They become 'disposable workers'.

The fights of migrant movement on the EPS

- The fights during the early period of the introduction of the EPS:
- The Equality Branch of Equality Trade Union and Nepalese workers' group for struggle led sit-in strike and formed 'KCTU (Korean Confederation of Trade Union) Sit-in Corps for the termination of forceful deportation and the full legalization of the undocumented migrant workers'.

The fights of migrant movement on the EPS

- The fights after the introduction of the EPS: The struggle to fully abolish the EPS diminished. I
- Instead, there were struggles against various problems caused by the EPS, such as the problems of the limited changes of jobs. We could see the relative increase of the struggles to stop crack-down, the fight to legalise Migrant Trade Union, and the movement in relation with marriage migrants.

Issues

1) Stances on the EPS

- Before the introduction of the EPS and the early stage of the EPS, there were intense disagreement between the critical support to the EPS and the opposition. However, as time goes on, the problems of the EPS continued and South Korean government continued the detrimental revisions. As a result, there is a tendency that opinions converge on the abolishment of the EPS.

Issues

2) Main streaming Migrant Workers

- Until 1990s and early 2000s, a human rights movement which is initiated by the organizations supporting migrant workers. A migrant trade union was organized in early 2000s, and it pursues labor movement which is mainstreamed by migrant workers.
- At current stage, there is no disagreement on the viewpoint that migrant workers have to mainstream the movement. However, there are differences in realizing this goal.

Issues

3) The methods of organization

- Migrant support organizations mostly promote the migrant communities which are affiliated with the organization, and support their activities. However, there are increasing efforts to organize migrant workers into trade union, that is led by Migrants' Trade Union and KCTU.
- This may be considered as a difference between human rights movement versus class-oriented movement.

The current situation

- On 1 August 2012, Ministry of Employment and Labor revised the 'rule on the change of work place' and stopped the provision of the list of companies offering jobs to migrant workers.
- This provoked the furies of migrant workers and related organization. This was led to an immediate resistance, and more than a hundred organization nation-wide organized 'Ad hoc Committee to respond the measure'.

The current situation

- Migrant support organizations such as Joint Committee with Migrants in Korea, Network for Migrant Rights, and the solidarity of labor-social movement such as Alliance for Migrants' Equality and Human Rights are all jointly fighting against this measure.
- The most noticeable situation is much larger group of migrant workers are engaging into the action.

The current situation

- This situation is also an important stimulus to migrant support organizations. Seeing the growing pains, fury and demands of migrant workers, these organizations also tend to become more active.
- In addition, there are also other emerging important migrant-related issues such as the government's attempt to introduce restrictive permanent residence programme as a condition to acquiring citizenship.

Prospects and challenges

- New policies on migrant workers continue to be introduced. First, there are measures to prevent migrant workers whose EPS terms have finished from remaining undocumented, such as 'measure of re-entry of diligent workers', 'special Korean language test'.
- Second, government strengthens controls over migrants as a preparation for the increased migrant workers. It expanded 'the collection of bio data of migrants (face and finger prints), strengthened deportations, and introduced the new measure on the changes of work place.

Prospects and challenges

- In addition to legal and systematic racial discriminations, social discrimination tends to increase. Thus, the movement has to prepare to struggle against the issues on racial discriminations.
- Long-term migrant workers will increase. This is an important change of condition with regard to the mainstreaming and empowering migrant workers.
- Organizing migrant workers through trade unions is more and more important and KCTU and its affiliated unions' effort is critical.
- Migrant workers movement has to develop alternatives to the EPS and pull together for the movement to abolish the EPS.

The Struggles of Migrant Movement in Korea against Employment Permit System and challenges

Chung, Young Sup

(Convener, Alliance for Migrants' Equality and Human Rights

/ Labour Committee Chair, People's Solidarity for Social Progress)

1. Background of the introduction of Employment Permit System

- South Korea was well known to international society after 1986 Asian Games and 1988 Olympic Games
- The increase of the salaries of Korean manufacture workers after 1987 Great Struggles of Workers. The lack of low-wage, low-class labour force due to the booming stage of Korean economy.
- The establishment of top-down outsourcing system, that is *Chaebol* (family conglomerate)-oriented. Economy incorporated into neo-liberal globalization.
- Industrial Trainee System was introduced as a purpose of managing migrant workers who entered the country with tourist and short-term visa and worked without documents.
- Because Industrial Trainee System did not recognize the minimum rights of workers, more than 80% of workers left the designated job. Human rights violation became a social issue such as staying without documents, violence, insulting swearwords, and confiscation of passports.
- With the momentum of 2002 World Cup Football Games, South Korean government attempted to improve the image of country. In 2004, Employment Permit System was introduced to decrease the rate of undocumented stays in large and to supply low-income and flexible labour force. The liberal government of Roh, Moo Hyun was also a factor. The neo-liberal flexibilisation of labour promoted the expansion of informal work in the country.

2. The characteristics of the Employment Permit System and the continuing and detrimental revisions of the System

- The EPS is basically about giving employers 'the rights to hiring'. Thus, the System basically gives employers all authorities about employment. It allowed workers the short stay of three years, but prohibited the change of workplace in principle. Migrant workers could not practice their labour rights such as the right to organize union in reality.

- There were three major deteriorations of the System. First, the EPS originally allowed migrant workers 3+3 years of work (if an employer re-hires a worker after 3 years, he or she may work 3 more years after 1 months of overseas stay. But, the new programme allows 3 years + 1 year 10 months of work (if an employer re-hire a worker after 3 years, he or she may work 1 year and 10 months more without the one month pause.) This is a reflection of employers' demand on the 1-month pause. However, it blocks any possibility to apply for permanent residence by allowing only 1 year and 10 months.
- Second, the System initially required 1 year term contracts for migrant workers (1+1+1), but was changed to allow 'free contract within 3 years'. When migrant workers want to enter South Korea, it is hard to refuse the 3 year contract that is proposed by employers. Thus, it makes migrant workers difficult to change their work place for three years, and may become a form of forced labour.
- Third, the System originally provided migrant workers with the list of companies offering jobs, but stopped it. This in practice deprives migrant workers from right to choose their work place.

3. The problems of Employment Permit System

- Short contract period: currently 3 year + 1 year and 10 months
- Labour exploitation and repression: Racial discrimination and human rights violation in work place (insulting swearwords, violence, degrading treatment, discrimination based on culture, sexual harassment, etc.)
- Extreme limitation to the change of work place: Migrant workers cannot freely change their work place.
- Low-wages and long work-hour: Migrant workers' wages are fixed to the minimum wage. Migrants work more than more than twelve hours per day average. They cannot enjoy appropriate holidays.
- Industrial accident: Higher rate of industrial accident and death caused by industrial accident than that of Korean workers.
- No possibility to transfer to long-term residence.
- The occurrence of undocumented migrants continues. Recently, undocumented migrants increased, because the EPS workers whose term terminated began to overstay.
- Migrant workers are protected by social welfare system.
 - ⇒ Thus, the EPS is an Asia-wide rotation system of labour exploitation. They become 'disposable workers'.

4. The fights of migrant movement on the EPS

- The fights during the early period of the introduction of the EPS: The Equality Branch of Equality Trade Union and Nepalese workers' group for struggle led sit-in strike and formed 'KCTU (Korean Confederation of Trade Union) Sit-in Corps for the termination of forceful deportation and the full legalization of the undocumented migrant workers'. Joint Committee for Migrant Workers in Korea also

ran a sit-in struggle. But, there were some splits between the opposition of the EPS and the critical support to the EPS.

- The fights after the introduction of the EPS: The struggle to fully abolish the EPS diminished. Instead, there were struggles against various problems caused by the EPS, such as the problems of the limited changes of jobs. We could see the relative increase of the struggles to stop crack-down, the fight to legalise Migrant Trade Union, and the movement in relation with marriage migrants.

5. Issues

1) Stances on the EPS

- Before the introduction of the EPS and the early stage of the EPS, there were intense disagreement between the critical support to the EPS and the opposition. However, as time goes on, the problems of the EPS continued and South Korean government continued the detrimental revisions. As a result, there is a tendency that opinions converge on the abolishment of the EPS.

2) Mainstreaming Migrant Workers

- Until 1990s and early 2000s, a human rights movement which is initiated by the organisations supporting migrant workers. A migrant trade union was organized in early 2000s, and it pursues labour movement which is mainstreamed by migrant workers.
- Especially through the sit-in strike at Myung-dong Cathedral in 2003-4, a number of migrant workers activists were formed. Since the establishment of Migrants' Trade Union, these activists led the movement for several years. However, continuing deportations almost exhausted their capacities.
- At current stage, there is no disagreement on the viewpoint that migrant workers have to mainstream the movement. However, there are differences in realizing this goal. Although there are a certain degree of differences, most migrant support organisations are dominated by Korean activists. The labour movement-oriented groups including Migrants' Trade Union intentionally pursue the activities mainstreamed by migrant workers, it has not been yet successful.
- The biggest challenge is the prohibition of the long-term residence of migrant workers.

3) The methods of organization

- Migrant support organisations mostly promote the migrant communities which are affiliated with the organization, and support their activities. However, there are increasing efforts to organize migrant workers into trade union, that is led by Migrants' Trade Union and KCTU.
- This may be considered as a difference between human rights movement versus class-oriented movement.

6. The current situation

- On 1 August 2012, Ministry of Employment and Labour revised the 'rule on the change of work place' and stopped the provision of the list of companies offering jobs to migrant workers. This provoked the furies of migrant workers and related organization. This was led to an immediate resistance, and more than a hundred organization nation-wide organized 'Ad hoc Committee to respond the measure' and initiated joint actions. This is the largest joint struggles since the introduction of the EPS.
- Migrant support organisations such as Joint Committee with Migrants in Korea, Migrant Rights Network, and the solidarity of labour-social movement such as Alliance for Migrants' Equality and Human Rights are all jointly fighting against this measure.
- The most noticeable situation is much larger group of migrant workers are engaging into the action. At the rallies of 19 August and 23 September, approximately a thousand of migrant workers participated and raised their voices. During the process, some active migrant workers who consistently participate in the campaigns are also found.
- As for the countries of origin of the active migrant workers, new groups of migrant workers from Cambodia, Vietnam, Myanmar, Indonesia began to take part in the movement, in addition to the traditional groups of Nepalese, Bangladeshi and Filipino workers.
- This situation is also an important stimulus to migrant support organisations. Seeing the growing pains, fury and demands of migrant workers, these organisations also tend to become more active. In addition, there are also other emerging important migrant-related issues such as the government's attempt to introduce restrictive permanent residence programme as a condition to acquiring citizenship, the establishment of the second national Basic Plan for Foreigner Policy, so organisations inevitable become more active in response to the issues.

7. Prospects and challenges

- New policies on migrant workers continue to be introduced. First, there are measures to prevent migrant workers whose EPS terms have finished from remaining undocumented, such as 'measure of re-entry of diligent workers', 'special Korean language test'. These measures are indeed opening the possibilities of long-term stay, but South Korean government prohibits the settlement of migrant workers. Second, government strengthens controls over migrants as a preparation for the increased migrant workers. It expanded 'the collection of bio data of migrants (face and finger prints), strengthened deportations, and introduced the new measure on the changes of work place. Thus, migrant workers movement has to build its capacities to respond to these changes.
- Meanwhile, the continuing downturn of the global economy affects Korean economy, and it is anticipated that such trend will continue in 2013. In addition to legal and systematic racial discriminations, social discrimination tends to increase. Thus, the movement has to prepare to struggle against the issues on racial discriminations.

- Long-term migrant workers will increase. This is an important change of condition with regard to the mainstreaming and empowering migrant workers.
- The problems of the EPS are increasing ever, thus migrant workers movement has to develop alternatives to the EPS and pull together for the movement to abolish the EPS.

고용허가제에 대한 한국 이주운동 진영의 투쟁과 과제

정영섭 (이주공동행동 소집자, 사회진보연대 노동위원장)

1. 고용허가제 실시의 배경

- 86년 아시안게임과 88년 서울올림픽을 계기로 국제사회에 한국이 널리 알려짐.
- 87년 노동자대투쟁 이후 한국 제조업 노동자들의 임금 상승. 호황국면으로 저임금 하층노동력 부족
- 재벌 중심의 수직적인 하청구조 확립과 신자유주의 세계화에 편입
- 관광비자, 단기비자 등으로 입국하여 미등록으로 노동하던 이주노동자 관리책으로 산업연수생제도 도입
- 산업연수생제도가 노동자로서 최소한의 권리 불인정하여 80% 이상이 사업장 이탈하여 미등록 체류. 폭행, 욕설, 여권 및 통장압류 등 인권유린 사회문제화.
- 2002년 월드컵으로 한국정부는 국가이미지 개선 시도. 또한 미등록 체류율을 대폭 낮추고 저임금 유연한 노동력을 안정적으로 공급하기 위해서 2004년 고용허가제 도입. 노무현 정부라는 자유주의 정부 배경도 있음. 더불어 신자유주의 노동유연화는 국내적으로 비정규직의 확산 촉진.

2. 고용허가제 특징과 지속적인 개악

- 사업주에게 이주노동자를 '고용할 권리'를 주는 것. 따라서 기본적으로 사업주에게 모든 권한이 있음. 3년 간의 단기체류 + 사업장 이동 원칙적 금지 + 노조결성 등 노동권 행사 실질적 불가능
- 계약 1: 3+3년 (3년 일하고 사업주가 재고용 시 1개월 출국했다가 다시 3년 더 일할 수 있었던 방식) -> 3+1년 10개월 (3년 일하고 사업주가 재고용 시 출국없이 1년 10개월 더 일하는 방식) <- 1개월 공백 없이 계속 근로시키게 해달라는 사업주의 요구 수용된 것. 영주권 신청을 봉쇄하기 위해 1년 10개월만 허용함.
- 계약 2: 1년 단위 계약(1+1+1) -> 3년 내 자율계약 <- 한국에 입국하기 위해서는 사업주가 제시하는 3년 계약을 거부할 수 없음. 따라서 실질적으로 3년간 사업장 이동하기 힘들게 되어 강제노동 성격이 큼.
- 계약 3: 구인업체 명단 제공 -> 명단제공 폐지 <- 이주노동자의 제한적 사업장 선택권을 실질적으로 박탈

3. 고용허가제의 문제점

- 짧은 노동 기간: 현재 3+1 년 10 개월
 - 노동착취와 탄압: 사업장 내 인종차별과 인권 침해 (폭언, 폭행, 인격무시, 문화차별, 성희롱 등 지속됨)
 - 사업장 이동에 대한 극심한 제한: 이주노동자가 자유롭게 변경할 수 없음.
 - 저임금과 장시간 노동: 최저임금에 고정, 하루 평균 12 시간 이상 노동, 휴일 부족
 - 산업재해: 한국 노동자들에 비해 높은 산재발생율과 산재사망율
 - 장기체류로 전환할 가능성 부재
 - 미등록 체류자 지속적 발생. 최근 체류기간 만료자들의 초과체류로 미등록 체류자 숫자 증가
 - 사회보장 사각지대
- => 결국 아시아 규모에서 노동착취 순환시스템. '일회용 노동자'

4. 고용허가제에 대한 이주노동 진영의 투쟁

- 도입 시기의 투쟁: 평등노조 이주지부, 네팔투쟁단 등이 주축이 된 '미등록 이주노동자 단속추방 중단과 전면 합법화를 위한 민주노총 농성단' 의 농성투쟁, 외노협 농성투쟁 (고용허가제 반대 vs 고용허가제 비판적 지지)
- 도입 이후의 투쟁: 제도 자체에 대한 전면적인 폐지 투쟁은 사그라들었음. 고용허가제가 초래한 여러 가지 문제적 사안들에 대한 개별적 항의 투쟁. (사업장 이동 제한 문제 등) 단속추방 중단 투쟁, 이주노조 합법화 투쟁. 결혼이주 여성 관련 운동이 상대적으로 확대됨.

5. 쟁점

1) 고용허가제에 대한 입장

- 고용허가제 도입 시기와 고용허가제 초기에는 고용허가제에 대한 비판적 지지 입장과 반대 입장이 팽팽했음. 그러나 시간이 지남에 따라 고용허가제의 문제점이 지속되고 정부가 개악을 계속하면서 현재는 대개 고용허가제 폐지로 수렴되는 경향임.

2) 이주노동자 주체화

- 90 년대와 2000 년대 초까지 이주노동자 지원단체 중심의 인권운동이 이어졌음. 2000 년대 초반 이후 노동조합이 결성되고 이주노동자들이 주체가 되는 운동을 노동운동을 지향.
- 특히 2003-2004 년 명동성당 농성투쟁을 거치면서 이주노동자 활동가들이 다수 형성됨. 2005 년 이주노조 건설이후 몇 년 간 이 활동가들이 주체적으로 활동함. 그러나 단속추방 등으로 거의 역량이 소진됨.
- 현재는 이주노동자들이 운동의 주체가 되어야 한다는 입장에는 별 이견이 없으나 실제로 이를 현실화하는데 있어서 차이가 있음. 여전히 이주노동자 지원단체들은 정도의 차이는 있으나 한국인

활동가들이 중심을 이루고 있음. 이주노조를 포함하여 노동운동 지향 세력들은 이주노동자들이 주체가 되는 활동을 의식적으로 추구하지만 아직 성공적이지 못함.

- 이주노동자들의 장기체류가 봉쇄되어 있는 상황이 가장 큰 난점임.

3) 조직화 방식

- 이주노동자 지원단체들은 주로 단체가 영향을 끼치는 공동체를 육성하여 그 활동을 지원하고자 함. 반면에 이주노조를 중심으로 해서 최근에는 민주노총에서도 노동조합으로 조직화하려는 흐름이 강화되고 있음.

- 이는 인권운동 vs 계급운동으로 파악해볼 수도 있음.

6. 현재 상황

- 2012년 8월 1일부터 고용노동부가 ‘사업장 변경 지침’을 바꿔 이주노동자에게 구직업체 명단을 제공하지 않으면서 이주노동자들과 관련 단체들의 분노가 커졌음. 이는 즉각적인 반발을 초래했고 전국적으로 100여개 이상의 단체들이 ‘비상대책위’를 결성하여 연대행동에 나섬. 이는 고용허가제 실시 이후 최대의 연대투쟁이라고 볼 수 있음.

- 외노협, 이주인권연대와 같은 이주노동자 지원단체 네트워크와 이주공동행동 같은 노동·사회운동 연대체가 공동의 투쟁을 벌이고 있음.

- 가장 주목할 만한 현상은 이주노동자들이 이전보다 훨씬 대규모로 행동에 나서고 있는 것임. 8월 19일 집회, 9월 23일 집회에 1,000여 명의 이주노동자들이 참여하여 목소리를 높였음. 그 과정에서 지속적으로 캠페인에 참여하는 적극적인 이주노동자들이 출현하고 있음.

- 또한 나라별로 보아도 전통적으로 운동에 적극적으로 참여해 왔던 네팔, 방글라데시, 필리핀 등에 더해 캄보디아, 베트남, 미얀마, 인도네시아 등의 이주노동자 집단이 운동에 참여하고 있음.

- 이는 기존의 이주노동자 지원단체들에도 큰 자극이 되고 있음. 이주노동자들의 고통과 분노, 요구가 커짐에 따라 단체들도 이에 부응하여 적극화되는 측면이 있음. 더불어 영주권 전치주의 도입 시도, 2차 외국인정책 기본계획 등 굵직한 이슈들에 대응하게 되면서 단체들의 활동성이 필연적으로 커질 수밖에 없는 상황임.

7. 전망과 과제

- 이주노동자 관련한 새로운 정책이 계속 도입되고 있음. 첫째, 고용허가제 체류기간이 만료된 이주노동자들이 미등록 체류로 남는 것을 예방하기 위한 것임. ‘성실근로자 재입국 제도’나 ‘특별한국어시험’ 등이 그것임. 이는 실질적인 장기체류의 길을 연 것인데도 한국 정부는 이주노동자들의 정착을 막고 있음. 둘째, 이주노동자 증가에 대비한 통제정책을 강화하고 있음. 2011년부터 전면화된 ‘얼굴 및 지문 정보 수집’, 단속추방 강화, 새로운 사업장 변경지침 등이 그것임. 따라서 이러한 변화에 대해 이주노동자 운동 진영이 대응 역량을 키워야 함.

- 한편 세계경제의 불황이 지속되고 한국경제도 그 영향을 받고 있음. 2013 년 이후에도 그러한 경향은 지속될 것으로 보임. 법 제도적 인종차별 정책에 더해 사회적인 인종차별 정서가 확대되는 조건임. 향후 더 대두될 수 있는 인종차별에 대한 사회적인 투쟁 태세를 갖추어야 함.
- 장기체류하는 이주노동자들이 늘어날 것임. 이주노동자들의 주체화, 세력화 측면에서 이는 아주 중요한 조건 변화임. 따라서 이주노동자 활동가 육성을 위한 체계적인 계획을 세우고 추진해야 함.
- 고용허가제의 모순과 문제점이 날로 커지는 상황에서 이주노동자 운동 진영은 고용허가제에 대한 대안을 개발하고 합의하여 폐지 운동에 힘을 합쳐야 할 것임.

The Conditions of Undocumented Migrants under Temporary Labour
Migration Policies

Jason Lee

(Director, Seoul Migrant Workers Center
/ Joint Committee with Migrants in Korea)

단기이주노동정책에서 미등록이주민의 상황 및 대안

이재산

(서울외국인노동자센터 사무처장 / 외국인노동자·이주민대책협의회)


The Conditions of Undocumented Migrants under Temporary Labour Migration Policies


Seoul Migrant Workers Center

Jason Lee

Current situation and problem

- The current EPS has failed in solving the issue of undocumented stay and human rights, and has simply provided a mean to supply sufficient labor to companies in need.


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- By the end of September 2012, there were about 1,450,000 foreigners residing in Korea on a long-term basis, and it is estimated that 180,000 of them are undocumented. Undocumented migrants are the structural results of the weak Korean migration policies and of the labor market. Due to their weak legal status, they are exposed to various human rights violations and labor exploitation.


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- The Korean government has been ignoring this structural failure that produces undocumented migrants, and has instead adhered to policies involving crackdown and forced deportation, which lead to much violence and serious human rights violations.

Korea's policies on foreign labor and their effect on undocumented migration

- The EPS, Korea's policy towards migrant workers, displays many faults, such as the unrealistic ban on industry change, limitation in company change, three months for employment limit.

- Considering the atrocious labor conditions, which make it hard for anyone to bear for a few months, it is not easy to work for a long-term without changing employment within the Korean 3D industry. If the worker is to exceed this limited number, he is bound to become an undocumented worker.

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- And with the economic situation worsening in Korea and with the lack of information on the companies needing migrant workers, it is very possible for the migrant workers to exceed the three months period given to them to find employment.

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- Furthermore, migrant workers are at the risk of becoming undocumented if the company decides to report their absence. Qualified migrant workers also run the same risk. The system itself is the source of these issues, yet no specific solution has been designed.

Cases of atrocious crackdowns

- The Korean government argues that forced deportation is a solution to the issue of undocumented migrants, but death incidents during such process keep occurring.


This video from a crackdown on April 8th, 2009



Discriminatory policies against compatriots and non-compatriots

- In June 2011, the Korean government decided to legalize undocumented migrants and their families who had been residing in Korea for over 10 years.

- In response to this measure, the JCMK stated that the Ministry of Justice was basing its act on a racial and national discrimination against migrants, according to 「International Convention on the Elimination of All Forms of Racial Discrimination」, 「International Covenant on Civil and Political Rights」, 「Constitution」. It thereby placed a complaint to the National Human Rights Commission of the Korea so that fair rights to live and to labor be administered, without discrimination.

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- As a result, on May, 2012, the NHRCK recommended that non-Korean ethnics should not be neglected and discriminated against in future policies regarding immigration, for humanitarian purposes.

Undocumented migrant children



- According to the UN CRC(Convention on the Rights of the Children, ratified by Korea in 1991), all children must be registered as soon as they are born, regardless of the status or origins of their parents. They are to be provided with the welfare and education services as best fits their needs, they are to be safely protected, and their rights are to be guaranteed by the law in case of detainment, detention or eviction.


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- However, undocumented migrant children are exempt from such rights. Among children whose parents are undocumented residents, some are even without any nationality, without any paper to prove their existence, because the embassy of their country would not accept their birth registration.


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- Furthermore, when their undocumented status is discovered by the police or the Ministry of Justice, these children are ordered to be detained or deported. They are hence taken to Foreigners Detention Centers, detained in the same conditions as adults, handcuffed and deported without any guardian.


- Migrant children, should their undocumented status be known to government offices, should not be exposed to the shock of being suddenly detained and separated from their parents and friends. Their opinions should be respected and their departure should be based upon ample time for preparation. Furthermore, even if their guardians are undocumented, their deportation, if it is inevitable, should be postponed, until the children in question can finish their education.


Solutions


- Crackdown and deportation will not solve the issue of 'illegal migrants' (the official term for the Korean government). The Korean government should stop its policies involving continuous crackdown and deportation towards undocumented migrants and should instead arrange remedies that will help undocumented migrants, whose status is a result of limits in the system and administrative procedures.

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- First, crackdown and protection towards migrants are severe limitations to the rights and freedom of the migrants. The procedure and grounds for such actions should be revised and reinforced according to judicial and criminal legislature.

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- Secondly, the detention centers should be minimized and the treatment within these centers should be corrected so as to guarantee human rights protection.

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- Thirdly, the structural elements of the system (such as the EPS) leading to the creation of undocumented migrants should be amended and measures should be carried on to legalize the undocumented migrants.

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- Fourthly, a social welfare system should be arranged for, guaranteeing a minimum of education and medical rights, even for undocumented migrants.

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- The current EPS should be changed into a work permit system so that no more migrants are forced to become undocumented due to wrong policies or system. The current policies regarding foreign labor should be amended and new policies should be drafted. These measures will decrease the unnecessary social costs and increase economic effects.



Thank you!! ^^

The Conditions of Undocumented Migrants under Temporary Labour Migration Policies

Jason Lee

(Director, Seoul Migrant Workers' Center
/ Joint Committee with Migrants in Korea)

1. Current situation and problem

The Korean government suggested three main reasons as to why it implemented the EPS(Employment Permit System). The first was a stable supply of labor to companies, the second a solution to the critical issue of undocumented workers in Korea, and the third was an attempt to solve human rights issues and thereby improving Korea's image in the international arena. However, the current EPS has failed in solving the issue of undocumented stay and human rights, and has simply provided a mean to supply sufficient labor to companies in need.

By the end of September 2012, there were about 1,500,000 foreigners residing in Korea on a long-term basis, and it is estimated that 180,000 of them are undocumented. Undocumented migrants are the structural results of the weak Korean migration policies and of the labor market. Due to their weak legal status, they are exposed to various human rights violations and labor exploitation. The Korean government has been ignoring this structural failure that produces undocumented migrants, and has instead adhered to policies involving crackdown and forced deportation, which lead to much violence and serious human rights violations. However, the undocumented migrants are not even guaranteed the minimum of legal protection during this process of forced deportation and crackdown. Furthermore, the issues revolving around the foreigner detention centers are quite serious. These detention centers, far from protecting or sheltering the foreigners, are prone to many exploitative acts such as long-term detention, for the lack of legislative control. Their treatment, medical issues and security are among the problems arising in these centers, as it has recently been shown by the death of migrant workers in these centers.

2. Korea's policies on foreign labor and their effect on undocumented migration

The EPS, Korea's policy towards migrant workers, displays many faults, such as the unrealistic ban on industry change, limitation in company change, three months for employment limit. Considering the atrocious

labor conditions, which make it hard for anyone to bear for a few months, it is not easy to work for a long-term without changing employment within the Korean 3D industry. If the worker is to exceed this limited number, he is bound to become an undocumented worker, in other words, what the Korean government 'illegal alien'.

And with the economic situation worsening in Korea and with the lack of information on the companies needing migrant workers, it is very possible for the migrant workers to exceed the three months period given to them to find employment. So they find themselves to be undocumented after they spend more than three months looking for employment. Furthermore, migrant workers are at the risk of becoming undocumented if the company decides to report their absence. Qualified migrant workers also run the same risk. The system itself is the source of these issues, yet no specific solution has been designed.

3. Language and term issue

In Korea, the term 'illegal alien' is widely used as the official term for undocumented residents. However, the negative connotation that this word emanates is bound to create prejudices against the undocumented workers, and gives out the image that these are criminals that should be separated from society. The blame is directed to the migrants, who become undocumented because of a faulty system or against their will, and a wrong social image is created in dealing with them.

Therefore, organizations fighting for migrants' rights within Korea prefer using the term 'undocumented', which implies a default in the administrative procedure, rather than the term 'illegal alien', which may bring about the possibility of being subject to punishment. Undocumented residents have simply exceeded their term of residency, and they are not criminals that have caused harm to society or others. The usage of the term 'undocumented migrant', instead of 'illegal migrant' has already been generalized in the international society. The Korean government should thus adopt the official term of 'undocumented migrant'. This change in language will clearly show the exact position of the migrant worker and will, at the same time, protect the human rights attributed to the undocumented worker.

4. Cases of atrocious crackdowns

The Korean government argues that forced deportation is a solution to the issue of undocumented migrants, but death incidents during such process keep occurring.

① On August 27th 2012, Mr. A, a migrant worker from Mongolia, passed away at the Hwaseong Foreigner Detention Center, only four days after Mr. A had been detained from the Immigration Office. His death was diagnosed as alcohol withdrawal syndrome. A had shown disturbing signs from the moment he had been brought in the detention center. While he screamed and banged on the steel-barred windows, the employees

of the center simply gave him sedatives during meal time, and did not resolve to any medical treatment. They instead moved him to a solitary room and A was found dead early that morning.

② On November 8th 2011, the immigration squad from the Immigration Office detained four undocumented workers from China (Korean ethnic Chinese) through questioning. Among them, H (male, 44 years old) showed signs of difficult breathing and eventually passed away. H had been in a critical condition from the moment he stepped in the squad car, and had the squad reacted appropriately from the beginning, the worst could have been clearly avoided.

③ In October 2010, the squad from the Immigration Office forced its way into an establishment and during the crackdown, a migrant worker from Vietnam died from a fall from a four-meter tall two stories window. However, the Immigration Office denied their responsibility, claiming there had been no physical contact, and nothing was done afterwards.

④ This video from a crackdown on April 8th, 2009, was made public, and the sight of violence imposed on migrants by the squad was quite a shock.

http://www.tagstory.com/video/video_post.aspx?media_id=V000305417

Two members of the Immigration Office squad demanded identification papers to two Chinese women working at a restaurant, without revealing their identity. As soon as the women produced their papers, they handcuffed them, pulled them outside, and hit them on the back of their necks and their backs.

⑤ On September 26th 2008, Thar Sow Aye (male, 39 years old), a migrant worker from Myanmar, was arrested by an employee from the Immigration Office who trespassed on the factory. After the arrest, Thar Sow Aye complained of chest pains, but he was admitted to a Foreigners Detention Center after a simple official check-up. He continued complaining, but the employees demanded 'hospital fees' and neglected him. It was only after midnight that he was diagnosed of acute myocardial infarction, and although a coronary artery expansion surgery was performed, he eventually passed away.

⑥ A fire broke out in the Yeosu Foreigners Detention Center in 2007, which killed 10 and wounded 17. Yet no revision or improvement has been made concerning the treatment of detainees in these centers.

⑦ On February 27 2006, Koskun Selim, a Turkish undocumented migrant, jumped out the fourth floor window from the Suwon Immigration Office, 15 meters below, and was brought to the hospital, but to no avail. On April 29th of the same year, Nuru Puad from Indonesia ran away to the top of the factory building in his attempt to escape from the immigration squad, fell from the third floor and was killed.

5. Discriminatory policies against compatriots and non-compatriots

In their attempt to provide a solution to the undocumented migration issue, the Korean government has legalized part of the migrated population, such as overseas Koreans, but it continues to deport or forces to 'volunteer' to leave the country to those who are not qualified as 'Koreans'. In June 2011, the Korean government decided to legalize undocumented migrants and their families who had been residing in Korea for over 10 years.

In response to this measure, the JCMK(Joint Committee with Migrants in Korea) stated that the Ministry of Justice was basing its act on a racial and national discrimination against non-Korean migrants, according to 「International Convention on the Elimination of All Forms of Racial Discrimination」, 「International Covenant on Civil and Political Rights」 and 「Constitution」. It thereby placed a complaint to the NHRCK(National Human Rights Commission of the Republic of Korea) so that fair rights to live and to labor be administered, without discrimination.

As a result, on May, 2012, the NHRCK recommended that non-Korean ethnics should not be neglected and discriminated against in future policies regarding immigration, for humanitarian purposes. In response to the recommendation, the Korean government replied that its policies simply incorporated and privileged overseas Koreans, and did not discriminate against the non-Koreans. However, both overseas Koreans and non-Koreans are commonly foreign nationals and are both subject to human rights violations due to their undocumented status. Therefore, to hold a discriminatory humanitarian policy is certainly violating Article 11 of the Constitution, which states that “No individual should be discriminated against in political, economic, social and cultural aspects based on gender, religion or social status”, as well as the International Convention on the Elimination of All Forms of Racial Discrimination.

Furthermore, actions taken for humanitarian purposes should not be applied to one side of the population, and the fact that non-Koreans should be discriminated against because of their particular ethnicity, even for humanitarian policies, is a contradiction in itself. It is therefore advisable that any immigration acts implemented for humanitarian purposes should be done so without regards to the country of origin.

6. Undocumented migrant children

As the number of migrants increases, the number of their children is also on the rise. Migrant children include children who accompanied their parents or guardians, and those who were born in Korea from migrant parents. Among them, there are those remain undocumented migrant children, because they could not obtain the Korean nationality, or a permanent residency, or a legal residency visa.

According to the UN CRC(Convention on the Rights of the Children, ratified by Korea in 1991), all children must be registered as soon as they are born, regardless of the status or origins of their parents. They are to be

provided with the welfare and education services as best fits their needs, they are to be safely protected, and their rights are to be guaranteed by the law in case of detainment, detention or eviction. However, undocumented migrant children are exempt from such rights. Among children whose parents are undocumented residents, some are even without any nationality, without any paper to prove their existence, because the embassy of their country would not accept their birth registration.

Despite guidelines from the Ministry of Education, they are often rejected from schools, whether they are entering for the first time, transferring or acceding to higher education. Even when they do go to school, they are often not allowed to school meals or scholarships. Furthermore, when their undocumented status is discovered by the police or the Ministry of Justice, these children are ordered to be detained or deported. They are hence taken to Foreigners Detention Centers, detained in the same conditions as adults, handcuffed and deported without any guardian.

On October 5th 2012, a 17-year old high school student from Mongolia was detained by the police and deported to Mongolia without probable cause. He had been living in Korea for over 10 years, since he was 7 years old. Having attended Korean elementary, middle and high schools, Korean was like his mother tongue. He was arrested by the police while he was trying to stop Mongolian teenagers who had gotten into a dispute with Korean teenagers who had lashed out disparaging comments. Although the boy in question had done nothing wrong, he was handcuffed every time he was transported and was treated as a criminal up until he was boarded on the plane. The simple fact that he did not have a visa seemed enough to violate his basic human rights.

Migrant children, should their undocumented status be known to government offices, should not be exposed to the shock of being suddenly detained and separated from their parents and friends. Their opinions should be respected and their departure should be based upon ample time for preparation. Furthermore, even if their guardians are undocumented, their deportation, if it is inevitable, should be postponed, until the children in question can finish their education. Migrant children who grew up in Korea for over 10 years, under the Korean system of education, are, in fact, Korean children. Giving them an opportunity to map out their future in the Korean society is not only the humanitarian thing to do, but also the best solution for the Korean society.

7. Solutions

Crackdown and deportation will not solve the issue of 'illegal migrants' (the official term for the Korean government). The Korean government should stop its policies involving continuous crackdown and deportation towards undocumented migrants and should instead arrange remedies that will help undocumented migrants, whose status is a result of limits in the system and administrative procedures. We hereby demand that the following conditions be met as soon as possible by the Korean government.

First, crackdown and protection towards migrants are severe limitations to the rights and freedom of the migrants. The procedure and grounds for such actions should be revised and reinforced according to judicial and criminal legislature.

Secondly, the detention centers should be minimized and the treatment within these centers should be corrected so as to guarantee human rights protection.

Thirdly, the structural elements of the system (such as the EPS) leading to the creation of undocumented migrants should be amended and measures should be carried on to legalize the undocumented migrants.

Fourthly, a social welfare system should be arranged for, guaranteeing a minimum of education and medical rights, even for undocumented migrants.

As we have seen from the measures taken in 2003 and 2011, decisive legalization of certain undocumented migrants did not lead to social confusion. The Korean government should use these past experiences to once again legalize without discrimination and save the undocumented migrants led to this status due to a wrongful system and economic difficulty.

Furthermore, the current EPS should be changed into a work permit system so that no more migrants are forced to become undocumented due to wrong policies or system. The current policies regarding foreign labor should be amended and new policies should be drafted. These measures will decrease the unnecessary social costs and increase economic effects.

단기이주노동정책에서 미등록이주민의 상황 및 대안

이재산 (서울외국인노동자센터 사무처장 / 외국인이주·노동운동협의회)

1) 현황과 문제점

한국정부는 고용허가제를 도입하면서 그 근거로 세 가지 중요한 내용을 제시하였다. 첫째는 사업장에 안정적으로 노동력을 공급하는 것이고, 두 번째는 이제까지 한국사회에서 큰 문제였던 미등록체류자문제를 해결하는 것이고 세 번째는 국제사회에서 한국의 이미지를 고취하기 위해 인권문제를 해결하는 것이다.

그러나 현 고용허가제는 사업장에 이주노동자를 제공하는 것을 제외하고, 미등록체류자의 문제와 인권문제를 해결하는 것은 실패하였다.

2012년 9월말 기준으로 한국내 장기체류 외국인 약 1,450,000명 중 미등록 이주민은 약 180,000명으로 추산되고 있다. 미등록 이주민들은 한국의 이주민 정책의 폐해와 노동시장의 필요성에 의해 구조적으로 양산된 측면이 있다. 미등록 이주민들은 취약한 법적 지위로 인하여 인권의 사각지대에서 각종 인권침해와 노동착취에 노출되어 있다.

한국정부는 미등록 이주민을 양산하고 있는 구조적인 폐해는 외면한 채, 미등록 이주민에 대한 강제단속, 강제추방 중심의 정책을 고수하고 있다. 또한 미등록 이주민에 대한 강제단속과 추방 과정은 매우 폭력적이며 심각한 인권침해가 일어나고 있다.

그런데 미등록 이주민들은 출입국의 단속·추방 과정에서 최소한의 적법절차도 보장받지 못하고 있다. 또한 외국인보호소 구금 문제도 매우 심각하다. 외국인보호소는 ‘보호소’라는 명칭과 달리 사실상 ‘구금시설’이지만, 구금기간이나 구금 절차와 관련하여 사법통제 절차가 전혀 없어서 장기구금 등 남용가능성이 높다. 최근에도 수감된 이주민이 외국인보호소에서 사망하는 등 외국인보호소 내 수용자 처우문제, 의료문제, 안전문제가 매우 심각한 상황이다.

2) 미등록이주민을 양산하는 한국의 외국인력 정책

한국의 이주노동자 정책인 고용허가제는 이주노동자의 비현실적인 업종 이동의 전면금지, 사업장 이동 제한, 구직기한 3개월 등 고용허가제의 경직적인 규정이 문제점으로 지적되고 있다.

단 몇 달도 버티기 힘든 열악한 노동환경 조건하에 놓여있는 한국의 3D 업종에서 사업장을 이동하지 않고 한 사업장에서 장기간 노동하기는 쉽지 않다. 만약 이 제한된 사업장 변경 횟수를 초과하면 미등록 체류자, 즉 한국 정부가 부르는 ‘불법체류자’가 되는 것이다.

또한 한국의 경제상황이 악화되거나 이주노동자를 구하는 업체에 대한 정보가 부족하면 구직기한 3 개월을 넘기는 일이 얼마든지 발생할 수 있는 상황에 놓여있다. 이렇게 본의 아니게 구직기한 3 개월을 넘겨도 미등록이주민으로 전락하게 된다.

더욱이 사업주의 이탈신고만으로도 미등록 체류자가 되는 등의 문제가 있고, 고용허가제 이외의 취업자격 이주노동자 역시 같은 문제들을 안고 있어 제도 자체가 미등록체류자를 양산해 내고 있는데도 이에 대한 구체책이 전혀 없는 실정이다.

3) 용어의 문제

한국에서는 미등록체류자에 대해 ‘불법체류자’라는 말을 정부의 공식 용어로 사용하고 있다. 그러나 불법체류자라는 부정적인 단어는 그 자체로 나쁜 이미지의 선입견을 갖게 만들고 있으며, 사회로부터 격리되어야 할 범죄자라는 이미지가 내포되어 있다. 이는 잘못된 제도로 미등록의 상황이 되거나 본의 아니게 미등록체류자가 되는 이주민에게 범죄자의 굴레가 씌워져 사회적으로 잘못된 인식을 갖게 만든다.

따라서 한국내 이주민권 단체에서는 형사 처벌대상으로 오해될 수 있는 불법체류자라는 용어보다는 행정적인 절차를 지키지 않았다는 의미의 ‘미등록체류자’라는 용어를 사용하고 있다. 왜냐하면 미등록 체류자는 체류기간을 초과했을 뿐 사회나 타인에게 위해(危害)를 가한 범죄자가 아니기 때문이다.

이미 국제 사회에서는 ‘불법체류자’라는 illegal migrant 라는 부정적인 언어보다는 undocumented migrant 라는 용어를 사용하는 것이 보편화되어 있기 때문에, 한국정부도 불법체류자라는 말보다는 미등록이주민이라는 말을 공식용어로 채택해야 할 것이다.

불법체류자가 아닌 미등록체류자로 명칭을 변화시키는 것은 용어를 통해 미등록 이주민의 정확한 위치를 나타내주는 것이며, 동시에 미등록 이주민에게도 부여된 기본적인 권리인 인권을 보호해주는 것이다.

4) 살인적인 강제단속의 예

한국정부는 강제추방을 통해 미등록체류자 문제를 해소한다는 입장을 고수하고 있지만 강압적인 단속과정에서 미등록체류자의 사망사건이 계속되고 있다.

① 2012 년 8 월 27 일, 몽골 이주노동자 A 씨가 화성외국인보호소에서 사망했다. A 씨가 출입국관리사무소에 단속된 지 사흘만이다. A 씨의 사인은 알코올 금단 증후군으로 추정되고 있다. A 씨는 외국인보호소에 수용된 직후부터 이상증세를 보였다. A 씨가 소리를 지르고 철창을 두드리는 등

계속해서 이상 증세를 보였지만, 보호소 측은 식사시간에 진정제를 주었을 뿐, 다른 의료조치를 취하지 않았다. 보호소 측은 A 씨를 1인 독거실로 이감시켰고, A 씨는 결국 그날 새벽 사망한 채 발견되었다.

② 2011년 11월 8일 출입국관리사무소 단속반원들이 불심검문을 통해 중국(한족) 미등록 노동자 4인을 단속하였고, 그 중 H(남, 44세)씨는 단속된 이주노동자들을 이송하는 과정에서 호흡곤란 증세를 보이다 사망하였다. 단속차량에 오르면서부터 매우 위중한 상태였던 H 씨에 대하여 단속반원들이 충분히 주의하면서, 초기에 대처하였다면 사망에까지 이르지 않았을 것이라고 판단된다.

③ 2010년 10월 출입국관리소 단속반이 서울의 한 사업장에 무단 침입해 이주노동자를 단속하는 과정에서 한 베트남 이주노동자가 4m 높이 2층 창문에서 추락해 사망하는 사고가 발생했다. 그러나 출입국사무소 측은 신체 접촉이 없었다는 이유만으로 자신들은 책임이 없다며 발뺌하고, 아무런 후속조치나 사태수습을 위한 입장 표명조차 없었다.

④ 2009년 4월 8일 출입국사무소 단속반이 단속된 이주노동자를 폭행하는 장면이 동영상으로 포착되어 충격을 주었다. (http://www.tagstory.com/video/video_post.aspx?media_id=V000305417)

출입국관리사무소 단속반 2명이 자신의 신분을 밝히지 않고 식당에서 일하고 있던 두 명의 중국동포인 여성이주노동자에게 신분증을 요구했고, 여성들이 신분증을 보여주자마자 손목에 수갑을 채우고 밖으로 끌고 나가 목 뒷덜미와 허리를 때렸다.

⑤ 2008년 9월 26일 미얀마 이주노동자 따쏘에(Thar Sow Aye, 39세, 남)씨는 공장에 무단 침입한 출입국사무소 직원에 의해 단속되었다. 단속 후 따쏘에씨는 심장의 통증을 계속 호소하였으나, 형식적이고 간단한 진료를 받은 후 외국인보호소로 이송되었다. 이후 외국인보호소에서도 통증을 계속 호소하였지만 '병원비'를 운운하며 응급환자에 대한 대처를 소홀히 하였다. 자정을 넘겨서야 급성 심근경색 진단을 받고, 관상동맥확장수술을 진행하였으나 사망하고 말았다.

⑥ 2007년에는 여수외국인보호소 화재 참사로 10명이 숨지고, 17명의 부상자가 발생하였지만, 외국인보호소 내 수용자 처우 문제, 단속과 보호소 구급에 대한 법 제도는 별로 개선된 것이 없다.

⑦ 2006년 2월 27일엔 터키 미등록체류자 코스쿤 셀림은 단속 후 수원출입국관리소 4층 보호실에서 15m 아래 화단으로 뛰어내려 병원으로 옮겼으나 숨졌다. 같은 해 4월 29일 인도네시아 미등록체류자인 누루 푸아드씨는 부친의 한 공장에서 갑자기 들이닥친 출입국관리사무소 직원들의 단속을 피해 옥상으로 올라가 3층 높이의 건물에서 추락하여 사망하였다.

5) 동포와 비동포의 차별정책

한국정부는 미등록체류자에 대한 대책으로 재외동포 등 일부는 합법화하고, 비동포에 대해서는 강제추방정책과 자진출국정책을 병행하고 있다.

한국정부는 2011년 6월, 10년 이상 미등록체류 재외동포와 그 가족에 대해 합법화 조치를 취하였다.

이에 대해 외국인이주노동·운동협의회(JCMK, Joint Committee with Migrants in Korea)는 「인종차별철폐 국제협약」과 「시민적 및 정치적 권리에 관한 국제협약」 그리고 「헌법」을 근거로

법무부의 조치는 비동포 외국인에 대한 인종 및 국적에 의한 차별을 내포하고 있으므로 평등한 노동권과 생존권이 보장될 수 있도록 차별을 시정조치해 줄 것을 국가인권위원회에 진정하였다.

그 결과 2012년 5월, 국가인권위원회는 재외동포 합법화 조치로 인한 비동포 외국인에 대한 차별에 대해 향후 인도적인 차원에서 외국인대상의 출입국 관련 규제 등의 정책을 추진할 경우에는 비동포 외국인이 배제되어 차별받지 않도록 권고하였다.

이에 대해 한국정부는 단지 재외동포를 대상으로 하여 포용정책의 차원에서 특별 혜택을 부여하는 것이지 비동포를 차별하는 것은 아니라고 하였다.

그러나 재외동포와 비동포 이주민의 국적은 외국인이라는 공통점을 갖고 있으며, 미등록 체류로 인한 인권 침해 상황을 동시에 안고 있다는 점에서 차별적으로 인도적인 정책을 펴는 것은 “누구든지 성별·종교 또는 사회적 신분에 의하여 정치적·경제적·사회적·문화적 생활의 모든 영역에 있어서 차별을 받지 아니한다.”는 헌법 제 11조와 모든 형태의 차별을 반대하는 인종차별 철폐 국제협약에 어긋나는 것이다.

또한 인도적인 목적의 대상은 어느 한쪽만 적용되어서는 안 되는 것이며, 인도적인 정책에서조차 동포 이외의 이주민이 동포가 아니라는 이유로 차별되는 것은 모순이다. 따라서 인도적인 목적으로 시행되는 출입국 관련 사업이라면 출신 국가를 초월하여 모든 인간에 대한 보편적 입장에서 시행되는 것이 바람직하다.

6) 미등록 이주아동

이주민이 늘어나면서 이들의 자녀인 이주아동들도 나날이 늘어나고 있다. 이주아동에는 부모나 보호자와 동반하여 이주한 아동뿐 아니라 한국에서 출생한 이주민의 자녀들도 포함된다. 이 가운데는 한국 국적이거나 영주권, 혹은 합법적인 체류 비자를 갖지 못한 미등록 이주아동들이 있다.

유엔 아동권리협약(한국은 1991년 비준)에 의하면 모든 아동들은 부모의 출신 및 신분과 무관하게 출생 후 즉시 등록되어야 하고, 아동에게 최선의 이익이 되는 방식으로 보건 및 교육서비스를 제공받아야 하고, 안전하게 보호되어야 하며, 억류, 구금, 강제퇴거 시에는 법률에 의해 충분히 인권을 보호받아야 한다.

그러나 한국의 미등록 이주아동들은 이러한 권리에서 배제되어 있다. 부모가 미등록 체류자인 아동들 가운데 일부는 모국의 대사관에서 출생신고조차 받아주지 않아 서류상 존재하지 않는 무국적자가 되고 있다.

교육과학기술부의 지침에도 불구하고 이들의 학교 입학, 전학, 진학은 종종 거부되고 있다. 취학을 하더라도 급식비나 장학금 지급 대상에서 배제되고 있다.

게다가 이들 아동들의 미등록 체류사실이 경찰이나 법무부에 알려지면 구금 및 추방명령이 내려지는데, 외국인보호소에서 성인들과 같은 공간에서 억류되었다가 손목에 수갑을 채워 보호자 없이 강제추방당하고 있다.

지난 2012 년 10 월 5 일, 몽골출신 청소년(17 세, 고등학생)이 아무런 잘못도 없이 경찰에 체포돼 추방된 일이 있다. 그는 7 살부터 10 년 넘게 한국에 살면서 한국에서 초등학교, 중학교, 고등학교를 다니 한국어가 모국어같은 소년이었다.

‘몽골 새끼’ 라고 놀려댄 한국인 청소년들과 시비가 붙은 다른 몽골친구들을 말리다 경찰에 체포되었다.

그 소년은 아무런 죄를 짓지 않았지만, 이동을 할 때마다 수갑을 채웠고 비행기에 태워지는 순간까지 범죄자 취급을 받았다. 그저 비자가 없다는 이유로 인권침해와 부당한 대우를 받은 것이다.

이주아동들의 미등록 체류사실이 관할 기관에 알려지더라도 억류, 추방당하여 부모와 또래들로부터 급작스럽게 분리되는 충격을 받지 않도록, 이주아동의 의사를 존중하면서 충분한 시간을 주어 준비한 후 출국할 수 있도록 해야 한다. 또한 아동의 보호자인 부모가 미등록체류자일 경우라도 아동이 초·중·고등학교에 재학 중일 경우에는 일정시기까지는 강제퇴거의 집행을 유예하도록 해야 한다.

한국에서 10 년 이상 거주하며 한국의 교육을 받고 자란 이주아동들은 사실상 한국인이라고 할 수 있다. 이들에게 한국사회에서 미래를 설계할 수 있는 기회를 주는 것은 인권적인 조치일 뿐만 아니라 한국사회를 위해서도 유익한 일일 것이다.

7) 대안

미등록 체류자에 대해 단속과 강제추방만으로 소위 ‘불법체류자(한국정부의 공식용어)’ 문제는 해결되지 않을 것이다. 지속적인 미등록 이주민에 대한 강제단속과 강제추방 중심의 정책을 중단하고, 제도적 한계와 행정적 절차의 문제로 미등록체류에 이른 이주민에 대한 구제책을 마련해야 한다.

이를 위해 다음 사항이 조속히 이행될 수 있도록 한국정부에게 촉구한다.

첫째, 이주민에 대한 단속·보호는 인신의 자유에 대한 중대한 제한이며 그 사유와 절차를 형사사법절차에 준하여 개정하고 사법심사를 강화해야 한다.

둘째, 사실상 구금시설인 보호소 구금을 최소화하고, 보호소 내 수용자의 처우 개선 등 보호시설을 인권친화적으로 개선해야 한다.

셋째, 미등록 이주민을 양산하는 제도의(고용허가제 등) 구조적 원인을 개선하고 미등록 이주민들을 합법화하는 제도를 마련해야 한다.

넷째, 미등록 상태에서도 교육권, 의료접근권 등 최소한의 기본적인 권리는 보호받을 수 있는 사회보장 체계를 마련해야 한다.

2003 년과 2011 년의 조치에서 보았듯이 일정한 조건을 갖춘 미등록 체류자에 대한 과감한 합법화 조치를 시행하여도 사회적 혼란은 야기되지 않았다. 이런 경험을 바탕으로 다시 한 번 차별 없는 합법화 조치를 시행하여 잘못된 제도와 어려운 경제 상황으로 미등록체류자로 내몰린 이주민을 구제해야 한다.

그리고 더 이상 잘못된 정책이나 제도 때문에 미등록체류 상황에 내몰리지 않도록 현 고용허가제를 노동허가제로 바꾸는 등 외국인력 정책의 대대적인 수정과 새로운 이민정책을 수립해야 할 것이다. 이런 조치는 미등록체류자에 대한 불필요한 사회적 비용을 줄이고, 경제 효과도 높이게 될 것이다.

Challenges to Migrant Workers Organizing as Identified by Unions

Sohoon Lee (The University of Sydney) / 이소훈 (시드니대학교)

CHALLENGES TO MIGRANT WORKERS ORGANISING AS IDENTIFIED BY UNIONS

Sohoon Lee
University of Sydney
Part of ARC Discovery Project by Prof. Michele Ford

LANGUAGE AND COMMUNICATION DIFFICULTIES

- Insufficient human resources, unfamiliarity with migrant organising, priority issues
- Problem when not only recruiting members but also maintaining membership and participating in union activities
- Construction union: Korean-Chinese (Josunjok)/ Han Chinese divide

HOSTILITIES FROM LOCAL WORKERS

- Being a relatively "ethnic homogenous" country, Korean workers are not used to working with foreigners.
- Negative perception against migrant workers
- Unions are supposed to represent the interests of their members so the negativity of their perception makes it difficult for unions to implement pro-migrant worker programs

MIGRANT WORKERS' HESITANCE

- Ungrounded rumour
- History of targeted raid of Migrants' Trade Union membership
- Employers' influence
- Psychological insecurity

UNIQUENESS OF MIGRANT WORKERS

- Temporary stay & pressure to make as much as possible
- Psychological/ physical/ legal insecurity
- Other needs & demands different from local workers

STRUCTURAL FACTORS: PRECARIOUSNESS

- Workers in informal sector, and small and medium sized enterprises (SME) are least organised among Korean unions. It is hard to organise Korean workers working informally let alone migrant workers (Example: construction union, industrial complexes)
- EPS (Employment Permit System) workers are by definition informal (contracted) and can only work in SMEs.
- Sometimes even if a migrant worker wants to join a union, there is no union option available for him/her to join.

STRUCTURAL FACTORS: UNIONS

- Unionists who are willing to organise and support migrant workers (i.e. local leadership) are often "caught in the middle" by relatively lukewarm support of the central unions/ confederations and opposition from the field.

STRUCTURAL FACTORS: GENDER

- There is gender imbalance among unionists. This also influences organisation of women workers.
- Workers identity among women workers are often obscured by visa regulations/categories defined by gender norms or in the name of ethnicity. For example, most marriage migrants work (usually in informal sectors or family-owned business/ agricultural establishments) but their workers identity is often not recognised.

ALTERNATIVES?

- Attempts are being made/ considered/ discussed to...
 - Organising by region/ industrial complexes
 - Organising by community (national/ ethnic/ regional...)
 - Separate organising of migrants (MTU)

ALTERNATIVE: ORGANISING BY INDUSTRIAL COMPLEX

- Industrial complex: a designated area with small and medium-sized factories
- Noksan IC has 1500 factories and 30,000 workers, 10-11% of whom are migrant workers. --> Taskforce on Noksan Industrial Complex organisation
- Sungseo IC has 1500 factories and 45,000 workers (80% workplaces has less than 50 employees) apprx. 10% migrant workers --> organised under Sungseo Trade Union

ALTERNATIVES: ORGANISING BY COMMUNITIES

- National/ethnic communities (i.e. Nepal, Indonesia, Vietnam, Philippines, etc.)
- Regional communities (i.e. Busan, Yangsan)

ROLE OF ALTERNATIVE ORGANISATION

- Some examples...
- Role of industrial complex trade unions: bringing Korean and migrant workers together
- Role of community organising: diversifying the models of "worker consciousness"
- Role of migrant trade unions: pushing greater trade unions to be more involved, raising the voice of migrant workers

THANK YOU!

