

**Foreign Workers  
in the Republic of Korea**

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# 1. Situation of Foreign Workers in Korea

## 1.1. Trends in Labor Migration

Korea was one of the manpower-exporting nations in the 1960's and 1970's, but from the late 1980's the country turned into a labor force-importing nation that had to address the problem of domestic manpower shortages with imported migrant workers. This reversal in the flow of labor was caused by higher income, and elevated education level and lowered birth rate among Korean nationals. Until recently Korea imported only skilled foreign laborers as employees, but introduced low-skilled foreigners as trainees. Realizing, however, that there are a lot of problems in employing migrant workers as trainees to tackle the chronic labor shortages, Korea introduced the Employment Permit System on August 17, 2004 under which foreign low-skilled workers may be imported as employees.

As of May 2005, migrant workers in Korea numbered 358 thousands (refer to Table 1), comprising 1.5% of the total workforce and 2.5% of all waged workers in Korea. As is indicated in Table 1, 55.6 % (199 thousand) of foreign workers are irregular migrants. The number of industrial trainees stood at 26,516 persons, or 7.4% of total migrant workers, and trainees from overseas-invested companies numbered 7,352 persons, or 2.1%. The sum of these two groups of migrant workers is 33,868 persons, or 9.5% of the total number of migrant workers in Korea.

One thing noticeable about the trend in migrant workers should be that the number of irregular migrants increased sharply until August 2003. There were 48,231 irregular migrants in 1994, but the number went up to 289,239 in December 2002, accounting for 79.8% of the total migrant workers in Korea<sup>1</sup>.

The steady increase in the number of undocumented migrants signifies that the Korean policy on low-skilled migrant workers has failed. Realizing this belatedly, Korea enacted and promulgated the "Act concerning the Employment Permit for Migrant Workers" in August 2003, under which low-skilled foreign workers may be employed as *employees*, not as *trainees*. Article 2 of the Addendum to the Act stipulates that measures shall be taken to legalize the undocumented migrants before the

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<sup>1</sup> The reasons for the increase in the number of undocumented migrants in Korea are given in Yoo and Lee (2002).

Employment Permit System comes into operation. In accordance with this provision, a series of legalization measures were taken before November 2003<sup>2</sup>. Consequently, the number of undocumented migrants dropped sharply from October 2003.

Table 1. Trends in Migrant Workers by Visa Status

(Unit: persons, %)

	Total	Employment Visas	Training Visas		Irregular migrants
			Trainees from overseas subsidiaries	Industrial trainees	
Dec. 1994	81,824(100.0)	5,265( 6.4)	9,512(11.6)	18,816(23.0)	48,231(58.9)
Dec. 1995	128,906(100.0)	8,228(6.4)	15,238(11.8)	23,574(18.3)	81,866(63.5)
Dec. 1996	210,494(100.0)	13,420(6.4)	29,724(14.1)	38,296(18.2)	129,054(61.3)
Dec. 1997	245,399(100.0)	15,900( 6.5)	32,656(13.3)	48,795(19.9)	148,048(60.3)
Dec. 1998	157,689(100.0)	11,143( 7.1)	15,936(10.1)	31,073(19.7)	99,537(63.1)
Dec. 1999	217,384(100.0)	12,592(5.8)	20,017(9.2)	49,437(22.7)	135,338(62.3)
Dec. 2000	285,506(100.0)	19,063(6.7)	18,504(6.5)	58,944(20.6)	188,995(66.2)
Dec. 2001	329,555(100.0)	27,614( 8.4)	13,505( 4.1)	33,230(10.1)	255,206(77.4)
Dec. 2002	362,597(100.0)	33,697( 9.2)	14,035( 3.9)	25,626( 7.1)	289,239(79.8)
Dec. 2003	388,816(100.0)	200,039(51.5)	11,826(3.0)	38,895(10.0)	138,056(35.5)
Dec. 2004	421,641(100.0)	196,603(46.6)	8,430(2.0)	28,125(6.7)	188,483(44.7)
May 2005	358,167(100.0)	125,116(34.9)	7,352(2.1)	26,516(7.4)	199,183(55.6)

Note: Figures in ( ) refer to percentages.

Source: Ministry of Justice

<sup>2</sup> Under the legalization program for undocumented migrants, any undocumented foreigner who had resided in Korea for less than three years as of March 31, 2003, should be permitted to work in the industry designated by the Minister of Labor for a maximum period of two years, if he/she voluntarily reported to the relevant authorities and went through a specified procedure. Anyone who had lived in Korea for three years or longer but less than four years as of March 31, 2003, and departed from the country after voluntarily reporting to the competent authorities and going through a specified procedure, should be allowed to reenter Korea to work for up to a total of five years including the length of his/her previous residence in Korea before departure. However, an undocumented migrant who had stayed in Korea for four years or longer as of March 31, 2003, should be urged to voluntarily depart from Korea before November 15, 2003, after which crackdowns should continue on undocumented migrants for forced departure.

## 1.2. Dimensions of Migrants

According to the Ministry of Justice, out of total migrants, men were 65.0 percent and women were 35.0 percent as of 2002. The distribution of migrants by age and gender is shown at Table 2. As shown in the table, male migrants are a little bit younger than female migrants. Table 3 shows that most of male migrant workers are employed in manufacturing and construction industry, while the majority of female migrants are employed in hotels and restaurants, manufacturing, and in the housekeeping, nursing and cleaning sectors

Table 2. Migrant Workers by Gender and Age Group

(Unit: percent)

	Total	29 or younger	30 ~ 39 years	40 ~ 49 years	50 or older	Missing
Total	100.0	25.1	39.3	19.3	15.2	1.2
Male	100.0	26.9	41.2	18.6	12.1	1.3
Female	100.0	21.9	35.7	20.4	21.0	0.9

Source: Ministry of Justice

Table 3. Migrant Workers by Sector

(Unit: percent)

	Total	Male	Female
Total	100.0	100.0	100.0
Agriculture & Forestry	1.0	1.2	0.7
Fishing	0.1	0.1	0.03
Mining & quarrying	0.2	0.3	0.09
Manufacturing	37.0	42.2	27.2
Electricity, gas & water supply	0.2	0.2	0.08
Construction	22.5	30.7	7.1
Wholesale & retail trade	0.4	0.4	0.4
Hotels & restaurants	15.5	4.0	37.3
Transport	0.2	0.2	0.01
Post & telecommunications	0.0	0.01	0.0
Financial institutions & insurance	0.0	0.0	0.01
Real Estate, renting & leasing	0.01	0.02	0.01
Business activities	1.7	2.0	1.1
Education	0.02	0.01	0.03
Health & social work	0.1	0.03	0.1
Recreational, cultural & sporting activities	0.03	0.04	0.03
Other community & personal service activities	2.2	2.2	2.2
Private households with employed persons	3.9	0.3	10.6
Missing	15.2	16.3	13.0

Source: Ministry of Justice

Irregular migrants by nationality are shown in Table 4. About half of irregular migrants are Chinese, and about half of irregular Chinese migrants are Korean Chinese. Following China, in terms of the number of undocumented migrant workers in decreasing order, were Thailand (6.9%), the Philippines (6.3%), Bangladesh (5.6%), and Mongolia (4.7%).

Table 4. Irregular Migrants by Nationality

(unit : persons, %)

	Dec. 2000	Dec. 2001	Dec. 2002
Total	188,995(100.0)	255,206(100.0)	289,239(100.0)
China	95,648(50.6)	130,291(51.1)	149,436(51.7)
Korean-Chinese	57,348(30.3)	72,332(28.3)	79,737(27.6)
Bangladesh	14,400(7.6)	15,538(6.1)	16,170(5.6)
Mongolia	13,000(6.9)	15,458(6.1)	13,638(4.7)
The Philippines	12,800(6.8)	16,843(6.6)	18,128(6.3)
Thailand	12,400(6.6)	17,330(6.8)	19,934(6.9)
Vietnam	7,780(4.1)	12,611(4.9)	14,445(5.0)
Pakistan	6,050(3.2)	6,651(2.6)	6,369(2.2)
Uzbekistan	4,900(2.6)	6,923(2.7)	7,540(2.6)
Indonesia	1,740(0.9)	9,870(3.9)	15,368(5.3)
Others	20,277(10.7)	23,691(9.3)	28,301(9.8)

Note: Figures in ( ) are percentages.

Source: Ministry of Justice

## 2. Policy on Immigrants and Foreign Workers in Korea

### 2.1 Introduction of the Industrial Skill Trainee Program for Overseas-Invested Firms

The rapid development of the Korean economy brought about exacerbating labor shortage problems since the late 1980's in the so-called "3D(*D* standing for *difficult, dirty, and dangerous*)" industries requiring low-skilled workers such as small manufacturing business and construction. Here rose the need for migrant workers. To cope with labor shortage, Korean government introduced the Industrial Skill Trainee Program for overseas-invested firms in November 1991, which allowed overseas-invested companies to train workers employed by overseas subsidiaries of Korean corporations at the head office sites for relocation back to their original posts. The duration of stay for the industrial skill trainees under the program was six months, but could be extended up to six additional months.

## **2.2 Introduction of the Industrial Trainee Program**

While the main beneficiaries of the Industrial Skill Trainee Program were the large overseas-invested enterprises, the small and medium-sized businesses still could not find a legitimate means of using foreign labor. Therefore, the Korean government introduced the Industrial Trainee Program for foreigners in November 1993 to help small businesses solve their problem of manpower shortages. The Industrial Trainee Program is a system under which foreigners are introduced as trainees for small and medium-sized manufacturing firms with 300 or less employees for a period of one year, and where necessary, the training period may be extended for another year. The Industrial Trainee Program was introduced for small and medium-sized manufacturing businesses. But the Program was extended to include the coastal fisheries in 1996 and the construction industry in 1997.

The Industrial Trainee Program, a strong pillar of the low-skilled foreign labor policy, has been criticized because the migrant workers participating in the Program were officially classified as *trainees*, not *employees*, and therefore were not legally entitled to protection under Korean labor laws. Because of these defects, the Program could not increase the number of trainees despite the sharp rise in the demand for foreign workers, ultimately resulting in an increased number of undocumented workers. On February 14, 1995, the government of Korea established the Guidelines for the Protection and Management of Foreign Industrial Trainees to make legal and social welfare arrangements to protect migrant workers. Starting March 1, 1995, the industrial trainees became eligible to receive the benefits of the Industrial Accident Compensation Insurance and the National Health Insurance. In addition, some of the protective provisions of the Labor Standards Act and the Industrial Safety and Health Act began to be applied to the trainees. Furthermore, since July 1, 1995, the trainees have been subject to the Minimum Wage Law to be compensated accordingly for their participation in the Training Program.

After introducing the Employment Permit System, Korean government announced in June 2005 that Korea will abolish the Industrial Trainee Program from January 2007.

### **2.3 Introduction of the Post-training Employment Program**

Many industrial trainees, however, departed from their workplaces, as they did not enjoy full legal protection under labor-related laws because of their status as *trainees*, not as *employees*, even though they were actually offering labor. Moreover, the limited number of trainees introduced under this program could not meet the demand for labor in small and medium size businesses for foreign workers<sup>3</sup>. To mend this situation, the Post-training Employment Program was introduced in April 2000. Under this program, an industrial trainee who worked at a firm for two years without interruption should be qualified to reside and work in Korea for another year in his or her capacity as *employee*, not as *trainee*. In 2002, however, the training period of two years was shortened to one year, while the post-training working period was extended from one year to two years.

If the Industrial Trainee Program will be abolish from January 2007, the Post-training Employment Program will be automatically abolished as well.

### **2.4 Introduction of the Employment Management Program**

The industrial trainees were placed only in the small and medium-sized manufacturing businesses, the construction industry and the agro-livestock industry, and were prohibited from engaging in the service industry. Nonetheless, many Korean ethnic migrants were working irregularly in the service industry. To accommodate the reality, the Korean government introduced in November 2001 the Employment Management Program. Under the System, a Korean ethnic foreigner of at least 40 years of age who has a close relative(s) in Korea is allowed to come to visit to visit relatives and may find a job in Korea in six areas of the service industry: the restaurant business, business support services, social welfare services, cleaning, nursing, and housekeeping, for a period of up to three years as an employee. From May 10, 2003, the age limitation was relaxed from 40 years or older to 30 years or older.

By Introduction of the Employment Permit System, the Employment Management Program was included to the special case of the Employment Permit System.

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<sup>3</sup> For details about the problems of the Industrial Trainee Program, refer to Yoo and Lee (2002), Im Hyon-jin and Seol Dong-hoon (2000), and Park Young-beom (2000).



## **2.5 Introduction of the Employment Permit System**

The foreign labor policies in Korea had experienced a series of revisions and changes, but none of them had provided a decisive solution to the migrant worker problems. While Korean government was resorting to several measures without providing a fundamental solution to the labor shortage, the number of irregular migrants reached a whopping 80% of the total migrants at the end of 2002, posing a serious social problems to be immediately dealt with. Under these circumstances, Korea needed a new institutional device to ease the labor shortages of business firms and solve the undocumented migrant workers.

Korean government tried to convert the Industrial Trainee Program into the Employment Permit System since 1995, but failed to do so because of the opposition of the business circle. However, a public consensus has grown that it is inevitable to have the Employment Permit System for migrant workers in order to alleviate the manpower shortages, to cope with the problem of rapidly increasing undocumented migrants, and to protect the human rights of migrant workers. As a result, the “Act Concerning the Employment Permit for Migrant Workers” was enacted in 2003 to institute, among others, the Employment Permit System for migrant workers, which will enter into effect on August 17, 2004.

Under the Employment Permit System, anyone who wishes to employ a foreign worker may do so upon obtaining a permit from the Minister of Labor if he is unable to find a Korean worker. The period of an employment contract for a migrant worker shall, in principle, be one year, but may be extended to a maximum of three years<sup>4)</sup>.

After the Employment Permit System is introduced, the existing Industrial Trainee Program shall be abolished from January 1, 2007.

The number of foreign workers to be received under the Employment Permit System, their fields of employment, and sending countries are determined by the Foreign Workers Policy Commission (chairperson: the Minister of Government Policy Coordination) and adjusted every year. Under the Employment Permit System, employers with fewer than 300 employees in manufacturing, construction, agriculture and livestock industry, and six areas of the service industry (the restaurant business,

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<sup>4)</sup> For details concerning the Korean Employment Permit System, refer to Yoo et al. (2003).

business support services, social welfare services, cleaning, nursing, and housekeeping) may employ foreign workers after getting employment permit for a period of up to three years.

Given that there has been criticism that the number of sending countries (17 in total) designated under the current Industrial Trainee Program is too many, eight countries were selected as candidates of sending countries under the Employment Permit System: China, Mongolia, Philippines, Vietnam, Indonesia, Thailand, Sri Lanka, and Kazakhstan. Sending countries were selected based on the rate of undocumented migrants, preference of employers, etc. Every other year Korean government will evaluate the rate of undocumented migrants, preference of employers, etc. and adjust the quotas of migrant workers for each sending countries and may cancel the designation of sending countries according to the evaluation result.

The Act on the Employment of Foreign Workers legislated in July 2003 provides for Memorandum of Understanding (MOU) to be signed between the governments of Korea and the sending. This scheme is intended to set up transparent procedure of selection and sending of workers in sending countries, thereby paving the way for reducing irregular labor migration. As of August 2004, Korea has signed MOUs with six labor-sending countries that anticipate the arrival of 25,000 foreign workers from the Philippines, Mongolia, Vietnam, Indonesia, Thailand and Sri Lanka, and is in negotiations with China and Kazakhstan. The major items included in the MOU are shown in Table 5.

Table 5. Major Items of MOU between Korea and Sending Countries

- ▲ The selection of foreign workers seeking a job in Korea may be done only by governments or other public agencies;
- ▲ Objective criteria should be presented for foreigners to be put on a list of foreign job seekers (e.g., ex-convicts excluded);
- ▲ It should be clearly stated that inclusion in a list of foreign job seekers does not necessarily mean a guarantee of employment in Korea;
- ▲ The country quotas may be adjusted and the MOU revised every 2 year in consideration of the number cases of undocumented migrants in Korea, and the preferences of the employers;
- ▲ Obligations are imposed on those involved in the program to make every effort to prevent absences without leave, such as giving preliminary training; and
- ▲ Foreign workers are received on condition that they shall be deported if found illegally staying.

## **2.6 Migration Policies for Highly-skilled Foreigners**

Korea's Immigration Act allows for lawful employment of skilled migrant workers and migrant professionals. Such employment is sought by people who fall under the following seven categories and are issued with work permits to do so: professors (E-1), language instructors (E-2), researchers (E-3), technology instructors (E-4), specialists (E-5), arts and entertainment workers (E-6), and people engaged in special activities (E-7).

The Korean government takes on an active role in attracting qualified migrant labor in the field of state-of-the-art technology. Since November of 2000, the government eased regulations and requirements concerning legal residence in Korea to motivate foreigners highly-skilled in the areas of information technology, electronic commerce, e-business and other fields of advanced technology to work in venture enterprises in Korea that had high demands for such labor. The state support comes in the form of, among others, issuing multiple entry visas on a wider scale, extending the maximum length of stay, and authorizing engagement in activities other than those permitted in residence authorization documents, all regardless of nationality.

Previously, only single entry visas were issued to those seeking jobs in Korea, and multiple visas were issued based on the principle of reciprocity or bilateral visa agreements with the country of which the applicant is a national. In November of 2000, however, restrictions were lifted to allow multiple entry visas to be issued regardless of any multiple visa agreement between countries. Eligible applicants include people seeking information technology-related jobs with venture firms and manufacturers in Korea and those with knowledge in information technology who desire working in the fields of electronic commerce and other e-business areas. Both of these groups of people are required to obtain employment recommendations from the head(s) of relevant ministries (Ministry of Commerce, Industry and Energy, or Ministry of Information and Communication). Qualification requirements are as follows: experience of five years or more in information technology, electronic commerce, and e-business areas or a minimum of a bachelor's degree in a pertinent discipline and experience of two years or more in related fields.

The maximum length of stay fixed on a one-time basis at the time of residence authorization was extended from the previous two years to three years in November of 2002. Moreover, the policy revisions permitted unlimited stay upon processing of residence extension requests in the event employment contracts are renewed. In addition, while any activity other than those described in residence authorization documents and changes to the workplaces in respect of both location and number were not permitted prior to November of 2000, policy changes eased such restrictions, allowing a maximum of two more workplaces and additional activities as long as the original employer agreed to them.

### **3. Social Integration of Foreigners Living in Korea**

Article 22 of the Act on the Employment of Foreign Workers provides that "a foreign worker shall not be given discriminatory treatment on the ground that he/she is a foreigner." This provision paves the way for the foreign worker to enjoy equality of treatment with national workers.

Migrant workers under the Employment Permit System and the Post-training Program are equally protected as national employees in applying labor laws. A migrant worker is allowed to join the trade union. Since the Labor Standard Act is not applied to services at private houses in Korea, however, migrant workers working in the cleaning,

nursing and housekeeping services at private houses are not covered by the Labor Standard Act. If such services are supplied at business sites, the Labor Standard Act is applied to migrant women. Maternity protection is applied to legal migrant women.

Under the Employment Permit System and the Post-training Program, migrant workers are required to join the Employment Insurance System, Industrial Accident Compensation Insurance System, National health Insurance System, and National Pension System, and are eligible to receive benefits from such systems in Korea, the coverage of unemployment insurance system to migrant workers is voluntary. If migrant workers want to be protected by the unemployment insurance, he is covered by the system.

Migrant workers are protected against discrimination based on race, ethnic origin, religion, gender, social status, etc. The Korean Constitution (Article 11) and the Labor Standard Act (Article 5) prohibit discrimination based on gender, nationality, race, ethnic origin, religion, and social status.

Table 6 shows the extent to which labor-related laws and the social insurance systems are applied to the migrant workers in Korea with different visa status.

Since the industrial trainees are not treated as employees, they are not fully protected by labor related laws. Based on the Guidelines for the Protection and Management of Industrial Trainees, the provisions of the Labor Standard Act applied to industrial trainees are very limited on the prohibition of violence and forced labor, the payment of training allowances, the settlement of all other overdue accounts, the breaks during working hours, holidays, overtime arrangements, night work arrangements, the leave of absence, etc.

For illegal immigrants, the Ministry of Labor has formulated the Guidelines for Handling Complaints of Migrant Workers under which the Labor Standard Act and other labor-related laws shall be applied to the undocumented migrant workers. However, the undocumented migrant workers tend to evade reporting to the administrative authorities because of their illegal status, making it difficult for the authorities to find ways of providing adequate protection to the illegal workers.

Migrant workers under the Employment Permit System and the Post-training Program are equally protected as national employees in applying labor laws. Migrant

workers can become members of trade unions or form their own. Since the Labor Standard Act is not applied to services at private houses in Korea, however, migrant women working in the cleaning, nursing and housekeeping services at private houses are not covered by the Labor Standard Act. If such services are supplied at business sites, the Labor Standard Act is applied to migrant women. Maternity protection is applied to legal migrant women. Because there is no chance to receive benefits from the National Pension Scheme, the public pension is applied to migrant workers based on bilateral agreement between Korea and the sending country. Under the Employment Permit System and the Post-training Program, since there is little chance of migrant workers' unemployment in Korea, the coverage of unemployment insurance system to migrant workers is voluntary. If migrant workers want to be protected by the unemployment insurance, he is covered by the system.

Migrant workers are protected against discrimination based on race, ethnic origin, religion, sex, social status, ect. The Korean Constitution (Article 11) and the Labor Standard Act (Article 5), and the Act on the Employment of Foreign Workers (Article 22) provide that "a foreign worker shall not be given discriminatory treatment on the ground that he/she is a foreigner." This provision paves the way for the foreign worker to enjoy equality of treatment with national workers. Inequality of pay between men and women without good causes are prohibited in Korea by law (Article 11 of the Constitution, Article 5 of the Labor Standard Act, Article 8 and 9 of the Employment Act for Gender Equality).

Table 6. Application of Labor-related Laws and the Social Insurance Systems for Migrant Workers

	Migrants under the Employment Permit System	Post-training employees	Trainees		Undocumented migrant workers
			Industrial trainees	Trainees from overseas subsidiaries	
Legal basis	Act on the Employment of Foreign Workers	Immigration Act	Guidelines for the Protection and Management of Foreign Industrial trainees(Ministry of Labor)	Guidelines for the Protection of Industrial Trainees from Overseas Subsidiaries (Ministry of Labor)	Guidelines for Handling Complaints of Foreign Workers (Ministry of Labor)
Application of labor-related laws or protection	-Labor Standard Act and other labor-related laws applied equally as to national workers -Minimum wages guaranteed -Industrial safety and health provided	-Labor Standard Act and other labor-related laws applied equally as to national workers -Minimum wages guaranteed -Industrial safety and health provided	- Only some clauses of Labor Standard Act applied -Minimum wages guaranteed -Industrial safety and health provided	-Only some clauses of Labor Standard Act applied -Minimum wages guaranteed -Industrial safety and health provided	-Labor Standard Act applied equally as to national workers -Minimum wages guaranteed -Industrial safety and health provided
Industrial accident insurance	-Covered	-Covered	-Covered	-Covered	-Covered
Health insurance	-Covered	-Covered	-Covered	-Not covered	-Not covered
National pension scheme	-Covered by bilateral agreement with a sending country	-Covered by bilateral agreement with a sending country	-Not covered	-Not covered	-Not covered
Employment insurance	-covered	-covered	-Not covered	-Not covered	-Not covered

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