

Evaluation of South Korea's Government Policy on Migrant Worker Protection in Safeguarding Labor Rights and Welfare

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ABSTRACT

Migrant workers constitute an essential component of the global labor landscape, including in South Korea, which has experienced increasing reliance on foreign labor across various industrial sectors. Their presence significantly contributes to national economic growth, particularly in occupations that are less desirable to the local workforce. However, behind these economic contributions, migrant workers often face serious challenges related to legal protection, fundamental rights, and guarantees of decent welfare. Many encounter discriminatory treatment, inhumane working conditions, and obstacles in accessing legal justice. Within this context, it is crucial to evaluate the policies formulated and implemented by the South Korean government in protecting migrant workers. This study adopts a normative juridical method, using legislative and conceptual approaches. This method enables the examination and analysis of applicable legal norms, both within South Korea's domestic regulations and in international legal instruments such as ILO conventions and relevant human rights declarations. The analysis is conducted through the review of primary legal materials, including statutory regulations, as well as secondary sources such as literature, scholarly articles, and academic documents discussing legal protection, workers' rights, and principles of social justice. The study aims to develop a normative understanding of how the state should ensure the rights and welfare of migrant workers in a fair, equitable, and humane manner, and to provide a theoretical foundation for the development of more inclusive and responsive labor policies.

INTRODUCTION

The phenomenon of migrant workers in South Korea has become a significant aspect of the country's national labor dynamics (Sembada, 2024). Over the past few decades, South Korea has experienced a growing demand for foreign labor, particularly in the manufacturing, construction, and fishing sectors (Nuzula, 2023). This trend stems from the fact that South Korean citizens are increasingly reluctant to work in these sectors, as they are often perceived as dirty, difficult, and dangerous. As a result, migrant workers have become a crucial pillar in sustaining various labor-intensive industries in the country. However, despite their economic importance, their position within the legal and social systems is not always secure or equal (Martuti, 2025).

Legal and social issues surrounding migrant workers in South Korea are highly complex. Many of them experience various forms of unfair treatment, ranging from inadequate wages and excessive working hours to discriminatory behavior from employers and the surrounding community (Andriani, 2024). Language barriers and limited access to legal

information further increase their vulnerability to exploitation (Angelia, 2024). In addition, the legal process is often lengthy, costly, and biased, worsening their situation. These conditions reflect significant gaps in the legal protection system, which ideally should guarantee justice for all workers, including those with migrant status (Valentino, 2024).

In this context, the role of the state becomes critically important. The state holds both a moral and constitutional responsibility to ensure that every individual working within its jurisdiction receives adequate legal protection (Putra, 2022). This protection should not be merely formal in the form of regulations, but must also encompass substantive aspects such as fair and non-discriminatory treatment, and respect for human dignity (Sutra, 2023). The state must not regard migrant workers merely as "*instruments of production*" to be exploited, but as legal subjects endowed with fundamental rights that cannot be denied simply on the basis of citizenship status (Tohawi, 2024).

The theory of legal protection provides a vital framework for understanding how law should function to safeguard vulnerable groups such as migrant workers (Pikulun, 2024). According to several legal scholars, legal protection consists of efforts by both the state and society to ensure that individual rights are respected and safeguarded from various forms of violation (Rambe, 2024). This protection can be preventive, curative, or rehabilitative in nature. In the context of labor, legal protection must be capable of anticipating potential violations of workers' rights, while also providing swift and effective mechanisms for redress when such violations occur (Sinaga, 2021).

The fundamental principles of legal protection for workers are justice and equality. There must be no discrimination based on nationality, race, religion, or migrant status (Hamidah, 2021). Law should serve to correct the imbalance of power between employers and workers, especially in situations where workers are structurally and socially disadvantaged. The main goal of such protection is to ensure that workers are able to work in safe, fair, and humane conditions, and receive appropriate compensation for their contributions (Tantri, 2022).

The concept of migrant workers' rights and welfare must be aligned with international standards established by institutions such as the International Labour Organization (ILO) and the United Nations (Saputra, 2024). Basic workers' rights include the right to decent work, freedom of association, protection against harassment and violence, and access to social security (Fikri, 2022). These rights are universal and must not be compromised on the basis of immigration policy or purely economic considerations. In this regard, migrant workers should not be treated merely as economic guests, but as human beings with fundamental rights that must be respected unconditionally.

The welfare of migrant workers cannot be measured solely by the amount of wages they receive, but also by the quality of life they experience. Indicators of welfare include physical and mental health, legal certainty, access to adequate housing, and opportunities for participation in social life (Safitri, 2023). Unfortunately, many migrant workers live in cramped, unhealthy conditions, and remain socially isolated from local communities. This situation reveals a neglected social dimension within labor policy—one that plays a critical role in determining the overall quality of a worker's life (Tarigan, 2020).

A conceptual approach to formulating fair labor policies must reflect the values of social justice and respect for human rights. Social justice does not imply equal treatment regardless

of circumstances; rather, it emphasizes giving greater attention to vulnerable groups to enable them to attain equal standing. In this context, migrant workers must be a central focus in labor policies, as they face more complex challenges than local workers. The principle of non-discrimination serves as a fundamental basis for establishing an inclusive and dignified system (Alvianto, 2023).

The rights to fair wages, social security, and decent working conditions are integral components of labor justice. These three elements are inseparable, as they collectively ensure the overall well-being of workers (Cindya, 2025). Fair wages enable workers to meet basic needs; social security provides protection against occupational and life-related risks; and decent working conditions uphold workers' safety and dignity. In an increasingly interconnected and globalized labor market, safeguarding these rights is not only a legal obligation but also a reflection of the human values that should underpin all public policy.

While existing research has focused on general labor policies and migrant worker welfare, there is a notable gap in studies that specifically examine the implementation of South Korea's Employment Permit System (EPS) and its effectiveness in ensuring migrant workers' rights in practice. Most previous studies do not incorporate detailed case examples of migrant worker exploitation, particularly in the form of unpaid wages, hazardous working conditions, and other violations that migrant workers face despite legal protections. Moreover, comparisons with labor policies in other countries, such as Japan and Singapore, are rarely made to highlight the unique challenges within the South Korean context. This study fills this gap by providing concrete examples of migrant worker exploitation and comparing South Korea's labor policies with those of other nations.

For instance, there have been numerous reports of migrant workers in South Korea experiencing significant wage theft, where employers fail to pay the agreed-upon salaries or force workers to work beyond legally mandated hours without appropriate compensation. Additionally, migrant workers in the construction and agriculture sectors often face unsafe working conditions, such as exposure to harmful chemicals and the lack of adequate protective gear. These real-life cases will be explored in the study to underscore the systemic issues within the EPS framework.

In comparison, Japan's Technical Intern Training Program (TITP) and Singapore's foreign worker policies offer valuable insights into alternative models of migrant worker management. Japan, for example, has faced criticism for its TITP program, which has been associated with exploitation and abuse, yet it also offers better mechanisms for worker protection and dispute resolution compared to South Korea. Singapore, on the other hand, has a more streamlined process for migrant worker integration, which includes better legal recourse and social welfare programs. By contrasting these systems with South Korea's EPS, this study highlights both the similarities and unique challenges of the South Korean context, which is heavily reliant on temporary foreign labor but struggles with significant gaps in worker protection.

METHOD

This research uses a normative legal method, which is a legal research approach focused on the analysis of applicable legal norms as a basis for answering the formulated legal issues. This study does not rely on field data collection or interviews but emphasizes the examination

of legal materials, both primary and secondary. The primary legal materials used include South Korean labor regulations that govern labor and migrant worker protection, as well as international legal instruments such as ILO conventions and relevant human rights declarations. Meanwhile, secondary legal materials include legal literature, scholarly journals, expert opinions, and other academic documents that can provide conceptual and theoretical explanations.

The approach used in this research is a statutory approach and a conceptual approach. The statutory approach is used to examine the substance of applicable legal norms, while the conceptual approach is used to understand the meaning, principles, and legal theories underlying the protection of migrant workers, including theories of social justice, non-discrimination, as well as rights to welfare and legal protection. Through this method, the research is expected to provide a comprehensive overview of how South Korea's legal policies regulate and ensure the rights and welfare of migrant workers in a normative context.

RESULTS AND DISCUSSION

A. Legal Basis for Migrant Worker Protection in South Korea

The protection of migrant workers in South Korea cannot be separated from the policies and regulations that govern labor relations in general. One of the important regulations implemented is the Employment Permit System (EPS), which was first introduced in 2004 as a way to regulate the entry of migrant workers into South Korea in a structured and legal manner. The EPS aims to address labor shortages in certain sectors, such as manufacturing, agriculture, and construction, which are not preferred by the local workforce. This system not only provides work permits for migrant workers but also sets various rules regarding the rights and obligations of workers, as well as recruitment procedures regulated by the South Korean government. Article 8 of the South Korean Immigration Law governs the process and mechanisms for issuing visas to migrant workers who wish to work in the country, while Articles 16 and 17 establish the basic rights of migrant workers related to working conditions and social protection.

The South Korean government, through the EPS, also has the obligation to ensure that migrant workers receive adequate protection in the workplace, including the right to fair wages and social security guarantees. The EPS limits the duration of migrant workers' contracts to a maximum of three years, with an option for one-time extension. This system is designed to reduce the potential for exploitation, yet many migrant workers feel that they do not receive adequate protection. Despite the clear regulations of the EPS, the reality on the ground often shows that there are gaps in its implementation, leading to the failure to fully respect migrant workers' rights, particularly in relation to excessive working hours and unsafe working conditions.

In addition to domestic regulations, South Korea's involvement in international instruments also plays an important role in ensuring the protection of migrant workers. One of the international instruments adopted by South Korea is ILO Convention No. 97 on Migrant Workers (Revised), which regulates the rights and protection of migrant workers. This convention obliges member states to provide social protection, health, and safety to migrant workers, as well as ensure that they have equal rights to local workers in terms of employment and working conditions. South Korea, as a member state of the ILO, ratified

this convention in 1975, demonstrating their commitment to implementing international standards related to the protection of migrant workers.

Additionally, South Korea has also ratified ILO Convention No. 143 on Migrant Workers, which guarantees the right of migrant workers not to be discriminated against based on their nationality. This convention also provides guidelines for countries to protect the rights of migrant workers before, during, and after their employment abroad. By ratifying these conventions, South Korea is expected to create a stronger protection system for migrant workers, adhering to international standards and striving to reduce the exploitation and discrimination that often occur.

Although there is already a strong legal foundation in both domestic and international regulations, the role of state institutions in the implementation of migrant worker protection policies remains crucial. The Ministry of Employment and Labor of South Korea (MOL), along with the Immigration Department and various local authorities, is responsible for overseeing the implementation of policies and providing assistance to migrant workers. The MOL, through its Immigration Division, also has the task of drafting more detailed regulations regarding the rights of migrant workers and supervising the execution of their employment contracts. One of their key roles is ensuring that the EPS system operates effectively and that migrant workers are not subjected to discrimination or exploitation.

In addition, the Immigration Office of South Korea has the obligation to oversee the immigration status of migrant workers and ensure that they are not trapped in illegal working conditions. Immigration is responsible for ensuring that migrant workers entering South Korea comply with the provisions under the EPS and have valid work permits. They also play a role in law enforcement related to violations against migrant workers, such as workers being forced to work beyond their contracts or treated unfairly.

The mechanisms for monitoring and resolving disputes for migrant workers are also crucial in ensuring justice. Migrant workers often face difficulties in accessing judicial institutions due to language barriers, a lack of understanding about their rights, and fear of deportation. To address this, South Korea has established several institutions that can assist migrant workers in resolving labor disputes, such as the Korea Labor Commission (KLC), which provides facilities for mediation and dispute resolution. The KLC is responsible for handling issues related to violations of migrant workers' rights, including problems with wages, working conditions, and unlawful contract termination.

In addition to the KLC, the Labor Ombudsman provides a complaint service for migrant workers who feel their rights have been violated. The Ombudsman listens to complaints from migrant workers and ensures that the cases they face are resolved fairly and transparently. The South Korean government also facilitates the establishment of service centers for migrant workers, which provide information on their rights and connect them with institutions that can offer legal assistance. However, many migrant workers are still reluctant to report issues due to fear of consequences for their residency permits, indicating that these monitoring and dispute resolution mechanisms are not yet fully effective.

With the existence of domestic regulations governing the EPS and South Korea's involvement in international instruments such as ILO conventions, it is expected that

protections for migrant workers can be further strengthened. However, significant challenges remain, especially in terms of implementing policies that meet international standards and tighter monitoring to ensure that migrant workers fully receive their rights.

B. Policy Evaluation and Challenges Encountered

The evaluation of the regulations governing the protection of migrant workers in South Korea reveals both strengths and weaknesses that need to be addressed. On one hand, the Employment Permit System (EPS) and related regulations provide a clear legal framework to ensure that migrant workers are employed under more structured and legal conditions. However, despite these legal norms offering a strong foundation, their implementation often does not meet expectations. For example, while migrant workers are recognized as having equal rights to local workers in terms of access to fair wages and working conditions, in practice, many workers remain trapped in a system that confines them to temporary contracts and low wages. This creates a stark inequality between migrant workers and local labor, despite regulations claiming equality. This weakness demonstrates that the existing regulations have not fully embraced the principles of social justice and human rights (HR), with migrant workers' rights remaining vulnerable to violations due to ineffective protection mechanisms.

One of the major challenges in the implementation of migrant worker protection policies is the ongoing discrimination and exploitation faced by workers on the ground. Migrant workers are often treated as a second-class labor force, with differential treatment compared to local workers, whether in terms of wages, working hours, or living conditions. This issue is compounded by language barriers, which hinder migrant workers from effectively communicating with their employers or government institutions. In many cases, migrant workers are unaware of their rights or lack the knowledge on how to report the abuses they endure. Additionally, they often fear retaliation for lodging complaints, including job loss or forced deportation. This discrimination fosters social tension, with migrant workers feeling marginalized despite their significant contributions to the nation's economy.

Another significant issue faced by migrant workers in South Korea is their limited access to justice, stemming from their lack of understanding of the local legal system. The lengthy, costly, and often incomprehensible legal processes often deter migrant workers from seeking legal assistance when they encounter problems with their employers or other parties. Despite the existence of oversight mechanisms such as the Korea Labor Commission (KLC) and the Labor Ombudsman, in reality, many migrant workers do not utilize these services due to fear of retaliation or immigration-related issues. This indicates that while regulations are in place to protect them, many workers lack effective access to enforce their rights in practice.

In addition to access to justice, protection of labor rights, health, and housing remains a critical issue. Many migrant workers in South Korea are bound by contracts that subject them to unfavorable conditions, including excessively long working hours and cramped, substandard living spaces that fail to meet health standards. Furthermore, migrant workers from certain countries may face discrimination regarding the types of jobs available to them, which are often limited to sectors vulnerable to exploitation. In many cases, migrant workers are not provided with adequate health insurance, meaning they lack sufficient

access to medical services when needed, despite their significant contributions to the country's economy. The protection of labor rights and health in this regard is clearly an area that still requires serious attention from the government.

Based on this evaluation, an important question arises regarding whether the existing policies are sufficient to ensure the well-being of migrant workers. Despite the existence of several regulations expected to protect the rights of migrant workers, many workers feel they do not fully benefit from these policies. Their awareness of their rights and their ability to claim those rights remains extremely limited. Additionally, the EPS system itself still tends to place migrant workers in a vulnerable position, where they must depend on employers to renew their visas, creating potential for exploitation. In such conditions, it is difficult to say that the existing policies fully guarantee the well-being of migrant workers.

There is also a clear discrepancy between policy on paper and its implementation. In theory, South Korea has adopted various international instruments regulating the protection of migrant workers, but in practice, many migrant workers feel that their rights are often ignored. For example, despite regulations regarding fair wages, many migrant workers do not receive wages according to the provisions or work in deplorable conditions. This indicates a mismatch between what is written in the regulations and the reality on the ground, where migrant workers often do not receive the protection outlined in the law.

Furthermore, the government's inability to effectively monitor and the lack of sanctions for violations also exacerbate the implementation of policies. Although there are institutions responsible for handling complaints and issues faced by migrant workers, many workers still feel that no significant changes occur when they submit complaints. This indicates a gap in the monitoring mechanism that needs to be addressed in order to provide more tangible protection for migrant workers.

Moving forward, it is crucial for the South Korean government to pay more attention to the implementation of policies by bridging the gap between existing regulations and the reality on the ground. The government must ensure that protection for migrant workers is not limited to documents but is also reflected in tangible changes in their lives. Optimizing monitoring, improving access to justice, and raising awareness among migrant workers about their rights are key steps that should be prioritized to ensure their well-being in a more holistic manner.

CONCLUSION

South Korea's legal policies in providing protection for migrant workers have demonstrated a sufficiently adequate structure and legal framework, particularly through the Employment Permit System (EPS) and participation in international legal instruments. These regulations reflect the spirit of justice and protection of human rights, including the right to decent working conditions, fair wages, and access to social security. However, the implementation of these regulations still faces significant challenges, particularly in the form of discrimination, exploitation, communication barriers, and unequal access to the justice system. The gap between the legal texts and the reality on the ground indicates that the legal substance has not fully addressed the complexities and needs of migrant workers' well-being comprehensively.

As a follow-up, it is necessary to reformulate and improve domestic legal policies to be more responsive to the real conditions faced by migrant workers. Existing regulations should be strengthened with a more humanistic approach, not only focusing on administrative or economic aspects but also considering the social and psychological dimensions of the workers. The South Korean government needs to enhance the effectiveness of oversight, provide easily accessible legal services, and establish more progressive international cooperation with labor-sending countries to strengthen the cross-border protection system.

Furthermore, efforts to increase legal literacy for migrant workers and empower law enforcement institutions to handle complaints should be prioritized, ensuring that the protection system is not merely symbolic but truly provides a sense of security, fairness, and well-being for every migrant worker who contributes to national development.

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