



Photo courtesy of JCMK

During International Migrants' Day, protesters carry photos in remembrance of migrant workers who committed suicide out of fear of deportation during the Korean government's mass crackdown. Seoul, South Korea, December 2003.

SOUTH KOREA

This report was contributed by the Joint Committee for Migrant Workers in Korea (JCMK).

Political and Economic Update

Roh Moo-hyun, a member of the majority Millennium Democratic Party (MDP), became South Korea's President in February 2003. Upon taking office, he faced numerous difficulties as the growing polarization among Korean society divided public opinion on issues such as South Korea's relationship with North Korea as well as with the United States. As part of his platform, Roh vowed to carry on with the Sunshine Policy toward North Korea. Korea's government also sent troops to Iraq, which sparked much public controversy.

In late 2003, Roh broke away from the MDP and formed the Uri party, which became the de facto

ruling party. The power struggle which ensued led the MDP to launch an impeachment claim based on the National Election Committee's issue of a reprimand to Roh for failing to remain neutral in elections. The 12 March 2004 impeachment of President Roh by the National Assembly threw Korea into a state of uncertainty and confusion. Roh, a former human rights lawyer, was elected with the support of young and progressive voters. He has sought to push through political and economic reforms since taking office but has been caught up in a backlash from conservatives.

A total of 193 opposition lawmakers voted in favor of the impeachment motion, which was filed for Roh's alleged violation of election law. The number exceeded the 181 votes, or two-thirds of the 271 incumbent lawmakers, needed to suspend the president's powers. It took only 50 minutes for the impeachment motion to be passed, the first such motion in the 56-year constitutional history of Asia's fourth-largest economy.¹ The lawmakers who cast "yes" votes were mostly from two conservative parties, the Grand National Party (GNP) and the

Millennium Democratic Party (MDP), which jointly filed the motion to oust the president. Uri Party members declined to attend the vote. But Roh's supporters demonstrated their disapproval of the impeachment in the streets with candlelight vigils, and on 14 May 2004 Korea's Constitutional Court rejected the impeachment. Roh was reinstated as president.

As Korea's political situation became uncertain, the country's economic situation also worsened, reminding some of the economic crisis of late 1997. Since the end of 2002, South Korea's economy has been on a weakening trend. The Korean economy is assessed as being in an economic downturn with stagnant domestic demand and a slowdown in export growth. Since 2003, private consumption has also declined, and there has been as yet no apparent sign of recovery. Meanwhile, slowing export growth, which has provided growth momentum since late 2003, is indicative of a gradual downturn in the manufacturing sector. From the short-run cyclical perspective, however, the Korean economy is showing mixed signs of a further slowdown followed by a gradual recovery.²

Domestic demand has become weak after two years, as consumption has been held back by household debt burden and investment constrained by structural factors. Private consumption slowed down due to repercussion from the high growth rate in 2002 and tighter control on household credit. The indicators for economic growth showed that the economy has depended on exports, while domestic demand failed to pick-up, thus the real GDP resulted in unbalanced growth. However, exports continue to be the main driver for growth as the economy entered its third year of adjustment. Although the current state of the economy appears pessimistic, Korea is expected to show recovery in its domestic demand in 2005.

The large-scale current account surplus in recent years, due to the stagnation in investment growth in contrast to the increase in the savings rate, shows



JCMK/COCATS members blocked by the police during their protest against the delayed legislation of the migration-related bill in the National Assembly, 2003.



Migrant workers during their 85-day outdoor protest against the mass crackdown. Seoul, Korea, 2003-2004.

that the domestic resources available are not being fully utilized.³ In particular, the corporate sector is continuously increasing its savings rate despite adequate liquidity holdings and high profitability. The accompanying decline in the long-term interest rates is interpreted as a sign of weakening confidence in future economic prospects. Overall economic policy needs to focus on expanding the potential for growth by enhancing the efficiency and productivity of the economic system. On the other hand, the employment situation in general is relatively stable, although there are some concerns about the widening income disparity and high unemployment rate among the youth.

2003

February

(25) President Roh Moo-hyun begins his term of office.

March

(25) A grace period from deportation for undocumented migrants is extended until August 2003.

June

The notorious E-6 entertainment visa is abolished.

(9-16) A 9-day sit-in and outdoor hunger strike by JCMK/COCATS members is held in front of the

National Assembly building to coincide with the Special Session of the National Assembly. The protestors demand legislation granting work permits for migrant workers.

(15) Philippine President Gloria Macapagal-Arroyo arrives for a two-day state visit to South Korea to discuss the nuclear crisis as well as the issue of migrant workers' rights.

(18) The government decides to implement the work permit system for foreign blue-collar workers, which parallels the

existing foreign industrial trainee system.

(28) A railway workers' strike which disrupted transport services results in government threats and police arrest of over 1,000 protestors. The Federation of Korean Trade Unions responds by calling for further strikes.

July

(31) The Foreign Workers' Employment Bill is passed by the National Assembly.

September

President Roh quits the

NUMBER OF INDUSTRIAL TRAINEES IN KOREA (AS OF JULY 2004)

Country	Trainee Employment		
	Trainee	Employment	Total
Nepal	1,326	1,799	3,125
Myanmar	90	439	529
Bangladesh	13	903	916
Vietnam	1,869	4,838	6,707
Sri Lanka	1,108	1,484	2,592
Indonesia	3,027	8,695	11,722
China	4,066	8,090	12,156
Philippines	1,545	4,113	5,658
Pakistan	1,302	1,416	2,718
Iran	81	102	183
Uzbekistan	1,871	1,607	3,478
Thailand	489	1,773	2,262
Mongolia	1,278	757	2,035
Kazakhstan	1,690	398	2,088
Cambodia	723	169	892
Total	20,478	36,583	57,061

Source: Ministry of Justice

Migration Update

Legislation of Employment Permit System

South Korea experienced a significant change in its migration policy during the period of 2003 and 2004 in the form of the legislation and implementation of the "Act on Employment of Foreign Workers," also known as the Employment Permit System (EPS). It recognizes unskilled foreign migrant labor as "legal" labor and stipulates that necessary foreign labor will be introduced based on a bilateral agreement between two governments with the guarantee of entitlement to the same labor protection as domestic workers.

Improving the legal system related to migrant workers was a part of the presidential election campaign in late 2002 for both the ruling (Uri Party) and opposition (Grand National Party) candidates. Candidates pledged to abolish the trainee system and introduce a new employment permit system. Following the move, during the extraordinary session of the National Assembly in February 2003, the migrant labor bill was presented to the Environmental and Labor Committee.

The bill was discussed until June without reaching any consensus. The extraordinary sessions

Events 2003 - June 2004

Millennium Democratic Party (MDP), purportedly due to party politics; 37 Roh loyalists follow suit.

November

The Ministry of Justice, the police and the Ministry of Labor launch a nationwide crackdown on undocumented migrant workers.

2004

January

(17) Migrants and migrants' rights activists hold a rally in Seoul protesting the government's crackdown on

undocumented migrant workers.

March

(12) Korea's National Assembly impeaches President Roh based on charges that Roh violated election laws and received illegal campaign funding, suspending his presidential powers.

May

(14) South Korea's Constitutional Court overturns impeachment of President Roh, who is reinstated.

(24) Prime Minister Goh Kun submits resignation in response to pressure relating to the intended

reshuffle of Cabinet members. Former education minister Lee Hae-chan is later nominated by President Roh to replace him.

Sources:

BBC news, China Daily, Scalabrini Asian Migration News,

continued through February, April, June, and July. During the session, the Korea Federation of Small and Medium Business (KFSB) strongly lobbied the opposition party to oppose the legislation process led by the government and the ruling party. KFSB publicized the negative aspects of the Employment Permit System (EPS) that salary increases, social security benefits, and the guarantee of basic labor rights to foreign workers will put an additional financial burden on employers and even on social security as foreign migrants would be unionized to make collective action for their rights. In the June session, migrant workers and members of Joint Committee for Migrant Workers in Korea (JCMK) held a 10-day outdoor sit-in demonstration outside the National Assembly building. When the demonstration started, JCMK leaders went on a hunger strike. One JCMK member even visited the National Assembly in session to monitor the discussion. Some opposition party members insisted that protecting migrants' rights couldn't be exchanged with the sacrifices of the Korean economy.

Finally, in the July session, both parties compromised to legislate the bill while the Trainee

System remained in force. The "Act on Employment of Foreign Workers" was legislated on 17 August 2003. It came after eight years of long debate among interested groups and society. But it was a much less positive outcome than what NGOs and even the government, especially the Ministry of Labor expected, as the Trainee System would be coexisting with EPS. Another problematic area is the selective legalization process stipulated in the law and the



Migrants and advocates camp outside of the Anglican Cathedral in protest. Seoul, Korea, 2003-2004.

Employment Policy for Unskilled Foreign Labor			
	Employment Permit System	Industrial Trainee System/ Trainee Employment	Employment Management System
Relevant laws	Act on Employment of Foreign Workers etc. (legislated Aug 17, 2003) Clause 2 and 3, Article 19 of Immigration Control Act,	Clause 2 and 6, Article 24 of Enforcement Decree of Immigration Control Act, Ministry of Labor regulation no. 258	Immigration Control Act
Enforcement	Aug 17, 2004	1994 / 2002	December 2002
Industry, business to be employed	Manufacturing, construction, service	Manufacturing, construction, agriculture and livestock, fisheries	Restaurant, cleaning related service, social welfare work, domestic service
Nationality and number of employment (set by the Foreign Workforce Policy Committee in 2004)	8 countries to sign MOU including the Philippines, Thailand, Mongolia, China, Kazakhstan, Sri Lanka, Vietnam, Indonesia 25,000 in 2004	15 countries in Asia incl. Vietnam, China, Thailand, Philippines, Indonesia, Bangladesh, Sri Lanka, Pakistan, Myanmar, Uzbekistan, Nepal, Iran, Kazakhstan, Mongolia, Cambodia Total 144,500 (since 2002) 38,000 in 2004	Foreign national Koreans aged over 25 years old 16,000 in 2004
Period of employment	3 year employment	1 year trainee + 2 year employment	2 year employment
Legal status (visa category)	E-9 (non-professional employment)	D-3 (industrial trainee) E-8 (trainee employment)	1) Entering to Korea with F-1-4 (visit reside) 2) Signed contract at Employment Security Center 3) Change to E-9 visa at immigration office 4) Employed in service, construction business
JCMK			

strict conditions on changing migrants' workplace.

Since the introduction of the Trainee System, JCMK and civil society groups demanded that a holistic approach to the migration policy should be made, including abolition of the Trainee System, introducing a Work/Employment Permit System, and legalizing all undocumented migrants. Therefore, the new legislation is regarded as a partial improvement of

migration policy.

Selective legalization and crackdown on undocumented migrants

After the passage of the law, the government set the selective legalization process of undocumented migrants from 1 September to 15 November 2003. It categorized undocumented migrants who had

NUMBER OF NON-PROFESSIONAL EMPLOYMENT (E-9) FOREIGN WORKERS

Classification	Total	A	Fo	FI	M	C	R	SM	SS	PS	DS	C	O
Total													
(84 Countries)	154,069	2,259	1	15	101,751	17,090	25,031	432	24	199	6,520	80	667
China	32,718	614	1	9	23,656	2,987	4,089	85	6	36	1,088	19	128
Overseas Korean													
(Korean Chinese)	53,100	694		2	11,307	13,960	20,840	324	18	161	5,405	52	337
Thailand	12,283	402		1	11,849		1					6	24
Philippines	8,691	31		8,640	1								19
Bangladesh	7,935	44		2	7,846	12							31
Indonesia	8,367	23			8,315	3	1						25
Vietnam	5,675	6			5,644	2	2	1					20
Mongol	4,721	26			4,666	3	1	7					18
Uzbekistan	3,818	76			3,603	51	49	8		1	18		12
Pakistan	4,234	32			4,171	2						2	27
Nepal	986	16			966	1							3
Myanmar	447				446								1
Sri Lanka	1,376	30			1,340	1	2						3
Iran	1,086	8			1,073	1		1					3
Kazakhstan	744	8			697	18	16	1			2		2
Cambodia	4				4								
Ukraine	247	14			229	1		2					1
Others													
(67 countries)	7,637	235		1	7,299	47	30	3		1	7	1	13
Types of Industry													
No. of business	64,965	1,218	1	10	34,790	5,662	16,154	150	18	196	6,446	39	281

Source: Ministry of Justice, as of 31 July 2004

A-Agriculture
R-Restaurant
C-Cleaning
Fo-Forestry

SM-Self Management
O-Others
Fi-Fishery
SS-Social Service

M-Manufacturing
PS-Private Service
C-Construction
DS-Domestic Service

been in Korea as of 31 March 2003 as follows:

a) For less than 3 years: eligible for sojourn status;

b) Between 3 and 4 years: eligible for visa issuance certificate but must first leave the country by 15 November. After departure, migrants can return to Korea within three months through documented employment;

c) More than 4 years: no possibility to legalize status. The Korean government warned that these migrant workers must leave the country by 15 November otherwise there will be a mass crackdown

followed by forced deportation.

The Ministry of Justice released a legalization result on 1 December 2003 that 184,199 of 227,757 (80.9%) undocumented migrants eligible for legalization were legalized through formal processes. The rest of the undocumented migrants, who numbered about 195,223, would be deported. The national breakdown of legalized undocumented migrants are: from China (Korean Chinese) 154,652 (79,956); Thailand: 21,373; Philippines: 18,502; Bangladesh: 17,751; Indonesia: 16,982; Vietnam: 15,974; Mongolia: 13,094; Uzbekistan: 8,834; and



Photo courtesy of JCMK

Protesters express their anger and disappointment over the Grand National Party's insistence on keeping the Trainee System during the special session of the National Assembly in 2003. Seoul, Korea, June 2003.

39,400 from other countries.

This selective legalization process threatened long-term migrants, who felt they had no choice but to hide or commit suicide. During the crackdown from 10 November 2003 to the end of January 2004, seven undocumented migrants committed suicide and two migrants died without receiving any support. To protest such selective legalization and deportation policies, migrants and support organizations held outdoor sit-in demonstration for 85 days from 15 November 2003 to 6 February 2004. Migrant's unions continued the struggle until the end of 2004. While migrant protesters struggled for legalization, a total of 3,451 undocumented migrants were deported from November 2003 to March 2004.

Coexistence of Trainee System and Employment Permit System

On 25 March 2004 the Ministry of Labor announced that eight countries - China, Kazakhstan, Indonesia, Vietnam, Sri Lanka, Thailand, Mongolia and the Philippines - would be allowed to send a total of 79,000 workers to the country. According to the government's plan, 25,000 workers would be deployed under the Employment Permit System, 16,000 Overseas Koreans under the Employment Management System, and 38,000 as Trainees. The

newly introduced foreign migrant workers were to be placed in five major industries including manufacturing, construction, agriculture, fishery, and services.

A memorandum of understanding (MOU) was first signed with the Philippines on 23 April, followed by an MOU with Mongolia on 3 May, with Sri Lanka on 1 June, with Vietnam on 2 June, with Thailand on 25 June, and with Indonesia on 13 July. Those countries that signed MOUs are known to be in compliance with all of the requirements of the Korean government, such as the establishment of an



Photo courtesy of JCMK

Migrant families participate in Children's Day festival. Seoul, Korea, May 2004.



JCMK members visit the detention center to protest against the unlawful treatment of migrants. Seoul, Korea, March 2004.

institution to handle and monitor the transfer of their workers to and from the country.

Also, with the decision to recruit nearly 80,000 new workers from other countries, the government decided to step up its efforts to round up and extradite more than 130,000 undocumented foreign migrant workers still hiding out in the country. Massive protests and criticism arose from the migrant workers as well as migrant support groups.

After a year of implementing the EPS, newly emerging problems have arisen among migrant workers. Strict conditions on changing employers for migrants who hold legal status is among the most common problems related to the legalization process.

Limited freedom of changing workplace

The new system states “foreign workers are supposed to work at the workplace where they signed labor contract for the first time. But, in the case of inevitable circumstances such as close-down or suspension of business, and legitimate withdrawal from the labor contract, workers can change to other businesses through the Employment Security Center.” In reality, however, even when there was reason to change the migrants’ workplace, either the employers do not allow it, or the Employment Security Center under the Ministry of Labor does not function

properly.

In one example, a Thai woman migrant was not paid regularly for four months, and for two months she did not receive any salary. In response, she did not go to work for two days. According to the regulations, an employer can make a report to the Employment Security Center if a foreign worker is absent for more than three days without notice, which would result in him or her being recognized as an undocumented migrant worker. As a result, the Thai migrant had to go back to work for fear of deportation as an undocumented worker. Another case involved a Filipino migrant who was working on a farm. He wanted to find another workplace, as he had conflicts with a Korean worker at the farm. While he was waiting for a new workplace, his salary was not given. His employer kept promising that he would pay only after completion of the workplace change report.

Responses

During the extraordinary sessions of the National Assembly in 2003, the JCMK-led coalition, the Common Committee for Opposing Crackdown on Migrant Workers, Abolition of Trainee System and

Securing Migrants' Rights, Korea (COCATS) coalition mobilized its members to publicize the issue of migration policy change. A public forum and an outdoor sit-in demonstration were held to pressure National Assembly members.

When the mass crackdown started, about 1,000 undocumented migrants and migrant advocates staged outdoor/indoor sit-in demonstrations against the selective legalization and forced deportation policy in each region as follows:

- Seoul: 60 migrants in the Seoul Anglican Cathedral, 100 Korean Chinese in the Korea Christian Centennial Memorial Building, 300 Korean Chinese in the Korean Chinese House, 70 migrants in the Myungdong Cathedral.
- Kyungnam: 110 migrants in the Kyungnam Migrant Workers Counselling Office
- Daegu: 100 migrants in the Daegu Migrant Workers Center
- Ansan: 90 migrants in the Ansan Migrant Shelter.
- Namyangju: 100 migrants in the Shalom House for Migrant Workers

Despite the demonstrations, there was no further legalization of undocumented migrants, but only an extended period for voluntary departure. Although not many visible and desirable achievements were made, migrants gained wide public support for their struggle. Various social groups made individual statements to oppose the mass crackdown on undocumented migrants including labor unions, professors, medical doctors, filmmakers and actors, among others.

Finally, with the partial improvement of migration policy, the following strategic responses were advocated by JCMK:

1) Abolition of Trainee System

a) Advocacy points:

- Freeze the number of trainees to be introduced;
- Allow small and medium companies facing labor shortages to employ foreign migrants under the new system.

b) Actions to be taken:

- Present a petition to abolish the Trainee System, or ensure it conforms with the Constitution.
- Mobilize and campaign against the Trainee System in Korea.

2) Legalizing undocumented migrants

a) Advocacy points:

- Stop the current crackdown and deportation policy, which has proven to be a failure, as shown by the

increasing number of undocumented migrants. The number has increased from 105,420 as of 1 December of 2003 to 180,000 at the end of 2004.

● Without a rational policy to resolve the problems of undocumented migrants currently in Korea, the introduction of new migrant workers should be stopped.

b) Actions to be taken:

- Lobby and campaign on the issues;
- Hold policy meetings with relevant government agencies;
- Organize migrant workers.

3) Amending the "Act on Employment of Foreign Workers" and related policies

a) Advocacy points:

- Remove provisions that violate or limit migrants' rights;
- Amend Article 2 of the Addendum that stipulates the selective legalization.

b) Actions to be taken:

- Lobby the newly-elected 17th General Assembly members to amend the law.
- Produce a lobby document to highlight the problems of the new law.
- Hold public forums to gain wide attention from society.
- Network with related groups.

In addition to advocacy activities, JCMK organized a rally to celebrate the entry into force of the UN Migrant Workers Convention on 1 July 2003, and to urge the Korean government to ratify the convention.

Also, some JCMK members have begun to hold cultural and educational activities for primary and middle school students in order to raise their awareness and sensitivity in regard to the multicultural aspects of living with migrants. Generally, migrant workers who participate in this program become teachers for a day, introducing their country's history, culture, music, food, etc.

Endnotes

¹*The Korea Times*, 12 March 2004.

²Korea Development Institute, "Quarterly Economic Outlook," December 2004.

³Kim, Hyeon-Wook, "2004-2005 outlook for the Korean Economy", November 2004, Korea Development Institute.