

Research Brief
Migrant Worker
Recruitment Costs

South Korea

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February 2017



South Korea is a major country of destination for low-skilled migrant workers. The recruitment of migrant workers in South Korea is regulated by the government through the Employment Permit System (EPS). The system centres upon government-to-government Memorandums of Understanding (MOU) signed with 15 other countries. Recruitment agencies, unlike typical labour migration corridors, are not involved in the process. Since its introduction in 2004, the EPS has decreased the recruitment costs of migrant workers by eliminating the role of recruitment agencies.

Background

South Korea has a population of roughly 50 million and a workforce of 27.2 million as of June 2015. With an ageing population problem, South Korea is increasingly dependent on foreign labour, particularly low-skilled migrants. As of January 2014, migrant workers are the largest group of foreign residents¹ in South Korea, comprising over 40% of all the 1.57 million foreign residents in the country (The Korea Herald, 2014). In total, migrant workers account for 1.2% of the population in South Korea. Of this demographic of migrant workers, Chinese citizens rank first with 53.1 percent, followed by Vietnamese with 11 percent, Filipinos with 5 percent and Indonesians with 4.77 percent. Around 9% of them are working without legal permits. Spouses of South Korean citizens are the second largest group of foreign residents in the country, followed by international students.

The employment of migrant workers in South Korea is regulated by the government through the **Employment Permit System (EPS)** introduced in 2004 (Library of Congress, 2015). Migrant workers categorized as non-professional workers (E-9 visa) under the EPS comprise almost half of the total non-professional migrant workforce. Workers from Vietnam account for the largest share of E-9 visa holders, followed by those from Indonesia, Cambodia, Uzbekistan and the Philippines. The designated industries open to E-9 workers are restricted to manufacturing, construction, agriculture/stockbreeding, offshore/inshore fishery and fish breeding. The H-2 visa is a preferential employment visa for ethnic Koreans from 11 countries, including China and the Commonwealth of Independent States.

The recruitment process is similar for both visas, but is considered to be less stringent for H-2 visas.

Details of policy

The EPS replaced the Industrial Trainee scheme which has been in place since 1993 and was aimed at addressing the shortcomings of the previous system while responding to the needs of the South Korean labour market (Yi, 2013). The old trainee system was a stop-gap measure which lacked a regulatory framework for managing the influx of migrant labour and was associated with wide-spread exploitation of migrant workers. There were issues with exorbitant recruitment fees, meagre wages and poor working conditions. A decade of active advocacy by faith-based organisations, civil society groups and migrant “trainees” ended the trainee system and the EPS was written into law in 2004 (Open Working Group on Labour Migration & Recruitment, 2015).

The new system manages the inflow of low-skilled foreigners into the country by matching the foreign workforce supply to the needs of the market, which allows protecting the local workforce from being

¹ Foreign residents include of non-citizens staying over 90 days, new citizens, naturalized children of new citizens and those who acquire residence through marriage.

crowded out by cheaper foreign labour. The system also included components to prepare the migrant workers for life in South Korea (International Labour Organisation, 2016).

The government manages the entire recruitment process which allows it to protect both the workers and the employers by reducing the possibility of corruption and abuses. The recruitment is regulated by government-to-government (G2G) MOUs signed with 15 foreign governments and managed by the EPS in association with South Korean embassies and consulates in countries of origin. There is little to almost no involvement of recruitment agencies. The Ministry of Employment and Labour (MOEL) maintains a website in 16 languages to provide information to prospective workers. Quotas of workers per country are established by the South Korean government, while governments of countries of origin are tasked with selecting competent job seekers based on objective standards of qualification such as EPS-TOPIK² score, skill test score and previous work experience (Ministry of Employment and Labor, 2010). Prospective workers will have to pass the Korean language test before applying to be selected for employment under the EPS.

The quotas set by MOEL are specific to each industry and are highly stringent. The employment of foreign workers is limited to small and medium-sized enterprises (SME) and is usually conditional on the employer facing workforce shortages, having already prioritised the hiring of South Koreans. For example, the maximum allowable percentage of migrant workers employed by a manufacturing SME in 2015 was limited to about 10-20% of the total workers employed, depending on the size and/or market capitalisation of the SME (Jung, 2015)

Workers who pass the initial screening are drawn up into a roster that will be transferred to the South Korean-based Employment Security Centre (ESC), the national migrant worker recruitment job centre. Employers who are eligible to hire migrant workers will apply to the ESC for recruitment of workers. Then the employer is able to choose from a pool of prospective workers with three times the number of workers requested.

Once chosen by an employer, workers are given standardised employment contracts and a 3-year work visa³ by the respective South Korean embassy in the countries of origin. Upon arrival in Korea, workers have to undergo a minimum of 20 hours of preliminary skills training specific to their industries as well as lessons on their labour rights, Korean laws and customs, insurance coverage and financial planning. Proper remittance channels are established on a country-to-country basis, based on the MOU.

Migrant workers are also guaranteed the same labour protections as local South Korean workers, such as the minimum wage, overtime pay, allowances, protection from forced labour and kickbacks, etc,

² The EPS Korean language proficiency test

³ This visa may be extended by an additional two years, totaling up to a maximum of 5 years, and may not be extended beyond this period. This strict visa policy on keeping migrant labour transient indicates the South Korean government's fear of migrant workers settling down in South Korea.

although, in practice, migrant rights activists report recurring infractions of the law by employers, including widespread violation of the minimum wage condition. For the duration of stay permitted by the visa, workers may change their jobs up to three times for reasons such as, (1) expiration of the contract period, mutual agreement for termination of employment, or cancellation of the employment contract due to reasons attributable to the worker; (2) suspension or cessation of business, or other reasons not attributable to the worker; (3) cancellation of the company's employment permission or receipt of an administrative order for restriction of employment of foreign workers; (4) cases where a worker cannot continue the employment due to unfair treatment from the employer (Jung, 2015). In order to change jobs, the worker has to be re-circulated into the roster of available migrant workers for employment and will have to be paired with another employer via the ESC again.

The worker covers the cost of the preliminary training, Korean language test, medical examination, visa, administrative fees and airfare. Apart from these costs, the typically exorbitant brokerage fees that make up the recruitment cost are regulated on a country to country basis. According to the MOEL, the overall recruitment cost declined from \$3,509/worker in 2001 to \$950/worker in 2012.

Nonetheless, criticism remains of the huge variability of recruitment fees among different countries of origins, with Filipinos bearing the lowest costs and Pakistanis the highest. These criticisms have been dismissed by the South Korean government as variations of the local market fees in countries of origin (Open Working Group on Labour Migration & Recruitment, 2015).

Another point to consider is that exorbitant fees are known to be extracted from prospective migrant workers through private Korean language schools in countries of origin. These fees are not documented by MOEL and present a significant loophole in the Korean EPS.

Pros and Cons

The most significant aspect of the EPS is the direct government oversight and regulation of the recruitment process, which is rather unconventional. This vastly diminishes the risk of private recruitment agencies in typical unregulated migration corridors overcharging migrant workers with impunity. A diagrammatic illustration of this aspect can be found in Figures 1 and 2 below. The elimination of this dimension of abuse thereby enables firmer control and transparency of recruitment fees.

Success in this aspect has been clearly evidenced by the drastic reduction of average recruitment fees from \$3,509/worker in 2001 to \$950/worker in 2012, as previously mentioned.

This ability to regulate recruitment fees is also concomitant with the increased regulatory muscle of the government to protect minimum wages, living and working conditions and other rights of migrant

workers. Such an achievement is both uncommon and remarkable, especially in the context of global governmental and regulatory apathy towards recruitment fees and the unfettered actions of exploitative recruitment agencies that characterise the global migrant labour market.

Figure 1: In a typical unregulated international migration corridor, the limited extent of local labour protections and the dominant role of private recruitment agencies enables widespread exploitation of migrant workers.

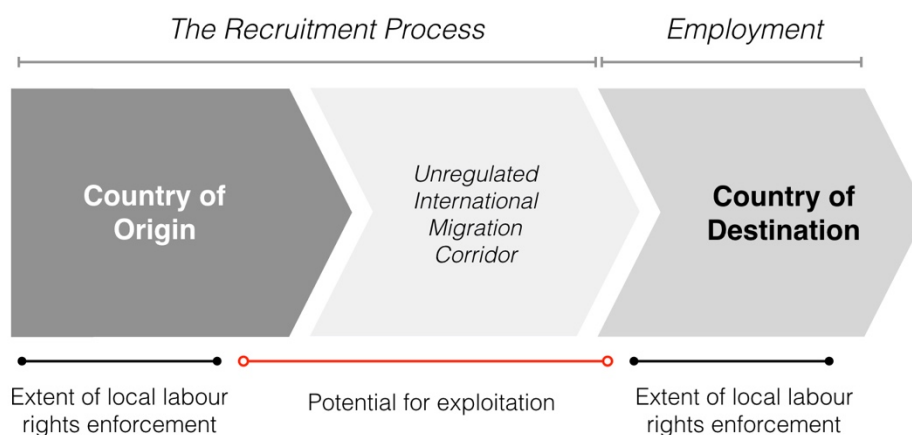
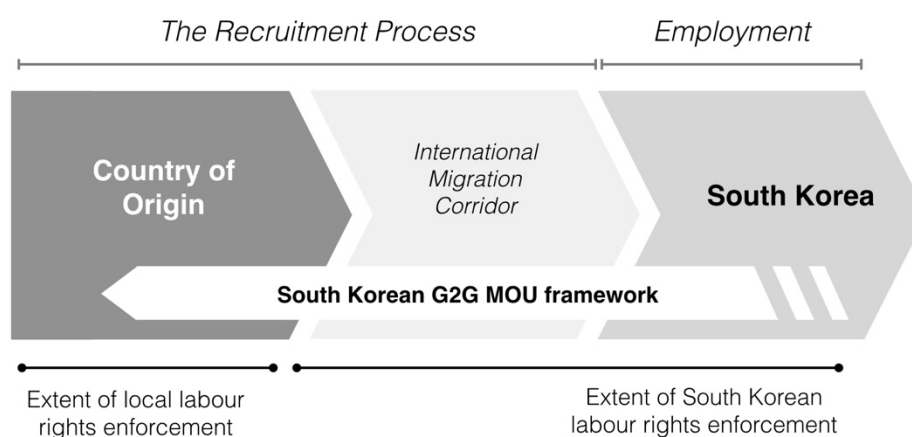


Figure 2: The South Korean MOU framework expands the extent of South Korean labour protection, eliminating the potential for exploitation by private recruitment agencies.



However, it cannot be denied that exorbitant and unauthorised recruitment fees can still be levied on workers while exiting their countries of origin, or at the recruitment stage of labour migration. Additionally, the requirements of passing a Korean language test creates a demand for Korean language lessons that presents lucrative opportunities for private language schools in countries of origin. Further recruitment fees may be extracted via exorbitant school fees and it should be noted that not all prospective workers who go through with the lessons are guaranteed eventual employment in South Korea.

These additional recruitment fees levied in countries of origin are subject to the often inadequate of local labour rights enforcement. The regulatory reach of the South Korean government is limited to within its own borders.

Another significant advantage of the South Korean model is the provision of job mobility for migrant workers. In a departure from the controversial *Kafala* system where workers are tied to employers, migrant workers in South Korea are able to change jobs up to three times for reasons ranging from insolvency of employers or unfair treatment. This radically rebalances the dynamics of power between worker and employer, as it curbs the ability of employers to extract kickbacks for continued employment, to abuse workers with impunity and to threaten workers with termination of employment or forced repatriation.

Additionally, it also reduces instances of recruitment fees. This is especially so in cases where a worker need not return to his country of origin, reapply for employment under a different South Korean employer and pay again the necessary recruitment fees, since he can now change employers under the same visa work permit without incurring additional fees.

A final noteworthy aspect of the EPS is how the South Korean government, through the MOU architecture, has the ability to leverage the quota system to enforce its regulations and standards in countries of origin. In a 2015 TWC2 interview with Kim Misun, executive director of We Friends, a South Korean migrant rights NGO, Kim explained how quotas for Vietnamese workers were severely restricted in retaliation to a trend of Vietnamese workers absconding into the shadow economy after migrating. This precipitated a quick overhaul by the Vietnamese government of their recruitment processes to prevent absconding (Au, 2015).

While this kind of diplomatic pressure has not hitherto been adopted to combat corruption and unauthorised recruitment fees in countries of origin, it presents a potential route for how countries of destination can use quotas and G2G frameworks to enforce or at least influence standards of labour protection in countries of origin.

It is however unrealistic to expect that governments would customarily use such a delicate channel to champion labour protections. This points to a fundamental problem in the nature of the South Korean G2G framework: it is structured on MOUs which are not legally binding as compared to bilateral agreements. If underpinned by legally-binding bilateral agreements, cross-border labour protections may be written into law and enforced internationally, without the need for complicated leveraging of quotas.

Nevertheless, countries without G2G frameworks have no such leverage in the first place and labour protection is limited to only within destination countries most of the time.

Despite its success in lowering recruitment fees and its potential in changing the dynamics of modern migrant labour recruitment processes, the inherent disadvantage in the South Korean model is that the government must assume the costs and responsibilities for managing the recruitment of migrant workers where the market had previously borne the burden – something that might give pause to other governments considering its example.

Ultimately, while the EPS was a product of popular opposition to migrant labour exploitation, it is a reality that economic security rather than labour rights triumph in the EPS (Shin, 2014). Comparing the punitive measures exacted on the Vietnamese workers and government and the inaction towards unauthorised recruitment fees and abuses in other countries of origin, the South Korean government lends greater emphasis to clamping down on irregular migration and is primarily motivated by prioritising the welfare of South Koreans.

The South Korean model, for all its shortcomings, still presents an enviable model of labour protection for the many unregulated migrant labour industries globally.

The author wishes to acknowledge Alex Au and So Young for their invaluable input and John Gee for help in proofreading and editing.

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TWC2 Recruitment Costs Research Working Group

The great majority of migrant workers pay large sums of money in order to obtain jobs in other countries. The costs, often exorbitant, leave workers debt-ridden and in a more vulnerable position to pernicious labour abuse. At TWC2, we recognise the consequences of recruitment costs and the urgent need to eliminate such fees.

This report is part of a series of papers analysing the policies in various countries regulating recruitment costs. Through this evaluative process, we hope to be able formulate effective policy recommendations in reducing the recruitment costs of workers who come to Singapore.



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