

**Immigration Policies of Taiwan and South Korea- A
Comparative Study**

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Abstract

Ever since the rapid industrialization started from 1990s in Taiwan, the need of blue-collar workers is a continuing demand for Taiwan. Now, immigrants are gradually becoming a certain part of Taiwan's population. According to the statistics, there are about 779,908 foreign residents in Taiwan up to July 2021. Facing such great number of immigrants, inevitably, the immigration policies have to take corresponding actions for the legislation need in the part of immigration. This paper is aimed at comparing the immigration policies between Taiwan and South Korea, especially in the aspect of integration policies. The data from MIPEX, Migrant Integration Policy Index, would be presented in analyzed qualitative ways with statistics in this paper. The index contains eight aspects of policy indicators. This index not only gives a comprehensive sight of the member states' immigration, but also provides complete tools of analyzing policies. However, since Taiwan is not included in this index as a member state, hence,

this paper will use content analysis to compare the existing literature and data related to the immigration integration policies to develop the research. Through this paper, the researcher hopes to find out the current barriers and challenges in Taiwan' immigration policy. By this exploration of immigration policy between Taiwan and South Korea, the researcher can see more clearly where Taiwan is now and how it can move forward in the field of immigration policy.

Keywords: Immigration Policy, MIPeX

摘要

自 90 年代臺灣快速工業化以來，台灣對藍領階級之工人有持續性的需求。現在，移民正逐漸成為臺灣人口的一部分。據統計，截至 2021 年 7 月，在臺灣的外籍居民約有 779,908 人。面對大量的移民，移民政策不可避免地要針對移民的立法需要採取相應的行動。本研究旨在比較臺灣和韓國之間的移民政策，特別是在融合政策方面。移民融合政策指數(MIPEX)的數據將在本論文中以質化及量化的方式呈現。該指數包含政策指標的八個方面。該指數不僅全面介紹了成員國的移民情況，且提供了完整的政策分析工具。然而，由於臺灣沒有作為成員國列入該指數之研究中，因此，本文將利用內容分析來比較與移民融合政策相關的現有文獻和數據，以開展研究。通過本研究，希冀找出臺灣移民政策中目前的障礙和問題。通過對臺灣和韓國移民政策的探索，可以更清楚地看到臺灣現在所處的位置，以及臺灣如何在移民政策領域向前邁進。

關鍵字:移民政策、移民融合政策指標

INTRODUCTION

Background

Ever since the rapid industrialization started from 1990s in Taiwan, the need of blue-collar workers is a continuing demand for Taiwan. Hence, no matter is the migrant workers who tend to work temporarily or immigrant who decided to have long-term residence in Taiwan, immigrants are gradually becoming a certain part of Taiwan's population. According to the statistics, there are about 779,908 foreign residents in Taiwan up to July 2021.¹ In recent years, because the demographic structure is changing, which caused by low fertility rate and aging society, Taiwan's demands for migrant workers are greater than before. Not only the blue-collar workers are in selection, but also the white-collar workers can also be seen a rising need in Taiwan's labor market.² Facing such great number of migrants, inevitably, the migration policies have to have corresponding actions for the legislation need in the part of migration. However, there are still some gaps between the law and the implementation. Moreover, there are still certain aspects in Taiwan's law/policy that are not fully included in particular situations.

¹ wikipedia, "在臺外國人," (2021).

² National Development Council, "General Introduction to the New Economic Immigration Bill," (2018).

Motivation

As the content mentioned in introduction, with such great amount of foreign nationals' population, there is no mature policy for immigration in Taiwan. In Taiwan, there is indeed law as a filter to have restrictions on foreign nationals. However, there is no policy toward foreign nationals to show that is specifically for them. For example, the law or regulations for foreign nationals in employment are mostly on control or management parts. In contrast, the critical parts of human rights mostly are ignored because of the absence of the policy for human right. For this reason, this paper is going to have comparison between Taiwan and South Korea in immigration policy and relevant laws, which a country share similarity with Taiwan.

Research Purpose

My research purpose is to use comparative study to compare Taiwan and South Korea's policies and what are the missing parts of each other. From the documents and literature to give a complete analysis in the part of immigration. Therefore, from the findings of research, I hope that there is some potential proposal for the policy making in the future and to see what we can improve based on status quo.

Research Questions

1. Based on the policy evaluation and the amendment or improvements in policies in

recent years, do immigrants, foreign residents, and recipient countries reach integration in terms of labor rights in reality?

2. Based on the previous question, what Taiwan can learn from South Korea in terms of integration policy and governmental operations for integration affairs?

Contribution

From the results of this paper, the findings may give the students who would like to probe into the field of immigration some ideas and clearer picture. And, hopefully, can give the policy makers some suggestions. Moreover, the existent literature concerning Taiwan' immigration is mostly written in Chinese, few of them are in English. Hence, through this research conducted in English can provide a way for the ones who are interested in Taiwan's immigration situation, but they cannot understand Chinese can be more convenient in their research in this very field.

Limits

Due to the limitations of time and space, this study will be a desk study. Moreover, since the action plan will be launched last year of every five years in South Korea for reporting the effects of policy, hence, the third action plan of immigration policy in South Korea has not yet launched. For this reason, the researcher can only refer the previous action plan with relevant laws measures to analyze the status quo of immigration in South Korea. Due to the language barriers, the researcher might only

can get access of official documents written in English in South Korea.

Delimits

This study will only concentrate on the immigration circumstances of Taiwan and South Korea and to have comparison. More specially, this study will probe into the integration in legal aspect and social aspect. The researcher will set the concentration on the labor rights of integration policy.

LITERATURE REVIEW

Immigration Policy

Immigration policies may be defined as “laws, rules, measures, and practices

implemented by national states with the stated objective to influence the volume, origin, and internal composition of migration flows” (Czaika & de Haas, 2011).³

The existence of immigration policy is based on the global mobility according to economic, political, geographical, or historical reasons and experiences. Castles and Miller stated that: the process of immigration can be called as an empirical process. In specific countries, it is easy for them to receive cultural variety and different patterns of ethnic groups, nevertheless, it could be a different story in another country, these ethnic groups could be marginalized and isolated. (Castles & Miller, 2009). Being in such a globalization era, to cope with immigration issues is requirements for most of the receiving countries.

According to Ko’s references of Tomas Hammer (1985) and Entzinger (1990), the realm of immigration policy contains two critical concepts: immigration policy and immigrant policy. Immigration policies refers to the control, regulations, and management of immigration flow and aliens. Two concepts mentioned above are quite often referred as the names of admission or aliens’ policy. Besides, they also include the regulations in the field of the conditions for immigrants’ residences. (Ko, 2016).⁴

Article 9(Immigration Act, Taiwan)

5. Holds the passport of the State to enter into the State and continues to reside in the Taiwan

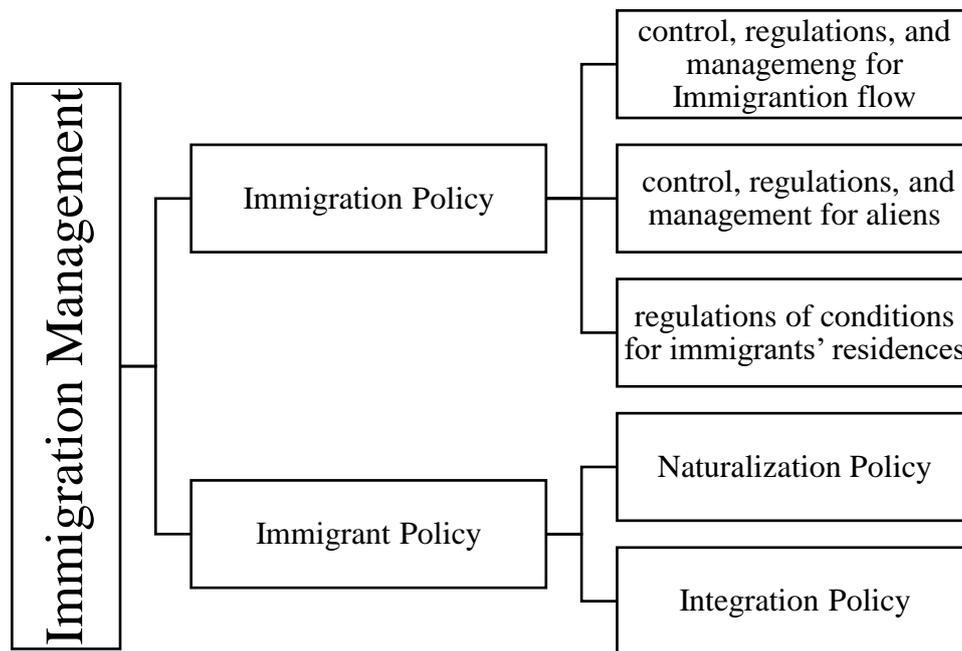
³ Ador R. Torneo, "Immigration Policies and the Factors of Migration from Developing Countries to South Korea: An Empirical Analysis," *International Migration* 54, no. 3 (2016).

⁴ 柯雨瑞, "我國移民融合機制之實際成效與可行對策之研究：從「移民融合政策指標」(Mipex)之角度開展," (2016).

Area for seven (7) years or up, and one hundred and eighty-three (183) days or up each year.⁵

Immigrant policy, in other hand, specifically refers to the polices toward the aspects about the livings of immigrants within a state. These aspects include the employment, education, health, access to nationality, family, etc. All of these can be entitled under integration policy.

Figure 1-Concepts of Immigration Policy



Though there is truly existing literature presented to define the terms concerning immigration policy or immigrant policy, however, there still exists differences in categorizing immigration and immigrant affairs. For instance, in Korea, the related immigration affairs and policies are all categorized under the title” *immigration policy*”. Under this immigration policy, the Korean government include the border controls and migrants, which is slightly different

⁵ Ministry of the Interior, "Immigration Act," <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=D0080132>.

with Tomas Hammer and Entzinger's definition toward immigration and immigrant policy. Though the form of category is different, yet the content is similar, dealing with the affairs related to border control and immigrants.⁶

In Taiwan, the same concept in immigration may be explained in different terms as well. There are no "explicit" words to refer immigration policy. There indeed exists the borders control of foreigners, but the concept of *integration* is replaced by the words "guidance", "assist". The ultimate objective is to help immigrants to adapt the receiving society.

Article 26(The Enforcement Rules of the Immigration Act, Taiwan)

*The competent authorities may entrust relevant institutions to conduct immigration planning, consultation, seminars, or provide language and technical training to assist potential immigrants adapting to the recipient countries and getting employed successfully.*⁷

Immigration Integration

When it comes to the word "integration", it is claimed at several works of scholars that it is a complicated concept and is hard to be defined. Most of the people will be confused by words such as "integration", "assimilation", "acculturation", "adaption". And they will also be confused by these concepts. Whether they are the same or completely different?

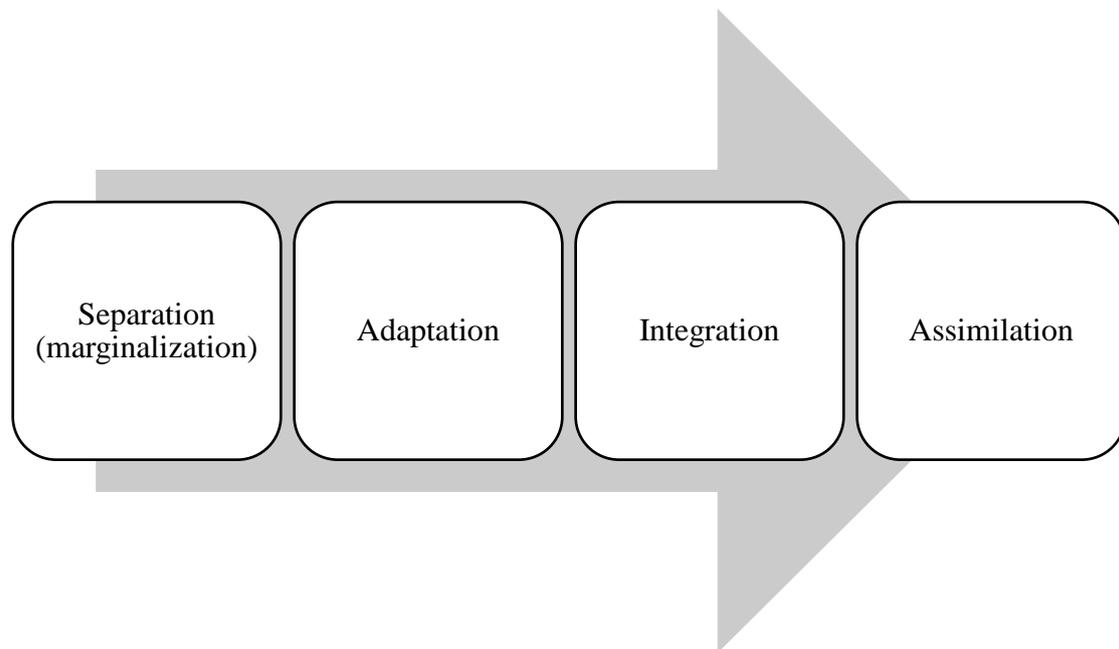
To answer this question, we need to zoom in our scope to the process of immigrants

⁶ Immigration Policy Commission, "The 2nd Basic Plan for Immigration Policy," (2013).

⁷ Interior, "Immigration Act".

entering the host society, the figure provided below is based on the works of Małgorzata Budyta-Budzyńska (2011)⁸:

Figure 2-Process of immigrants entering host societies



These four terms can be seen as the extent the immigrants enter into the host society. When the immigrants do settle down in a society, they are physically in the society, however, they are culturally, or socially isolated in that very society. This will be called “separation” in this process. For instance, at some corners of Germany, there might exist several generations of immigrants from China. Also, in Mexico, there may

⁸ M. Budyta-Budzyńska, "Chapter 3 . Adaptation , Integration , Assimilation an Attempt at a Theoretical Approach" (2011).

be living a great amount of Indian minority. This is not infrequent or uncommon in our surroundings. Even in a country that it emphasizes dominant culture, minority culture will still exist as culturally isolated groups, which cannot easily melt into the host society.⁹

The next phase will be presented in entering process is “adaptation”. Originally, this concept rarely appears in the field of sociology or anthropology. It is a more common concept in ecology and evolutionary biology, especially in Darwinian theories. In 19th century, anthropology started to adopt the Darwinian theory, which is evolutionist approach to elaborate the evolution of culture and society. However, the practices of adopting theories from various fields were still not common at that very time. Until 20th century, criticisms and analyses developed, leading these evolutionist theories to be more structural and functional in configurations (Bonte, 2007).¹⁰ In the late 1950s, the more mature methodology produced to explain the concept of adaption. That was the time cultural adaptation was viewed as part of a whole, and systematical theory, which was under cultural evolutionism, aiming to demonstrate human beings were able to survive with the improvement of social abilities under certain environments. As mentioned earlier about separation, if we do not take separation as an

⁹ Ibid.

¹⁰ Guillaume Simonet, "The Concept of Adaptation Interdisciplinary Scope and Involvement in Climate," (2010).

action of contacting with host society in the sight of their social or cultural isolation, adaptation then can be seen as the elementary stage of contacting with the host society. In this stage, the newcomers neither urge to obtain close bonds with host society nor immerse themselves in the society to change themselves inwardly, not even mention to fit themselves to certain kind of culture or to be part of that culture. To certain extent and occasions such as workplace, they will adapt themselves to specific ways of acting. Nevertheless, the converted behaviors are related to survival, mostly are economically associated. In this phase, newcomers will mostly remain their mother-land culture, and ways of living privately and inwardly.¹¹

The third stage of immigrants' process of entry is integration. Compare with the previous two concepts of immigration, the concept of integration and assimilation, which will be used from times to times interactively. In the sights of some scholars (Bloemraad, Korteweg, & Yurdakul, 2008), the concepts of "integration", and "assimilation" are overlapping in their essence, sometimes can even be seen as synonyms. However, another school of scholars elaborate their theoretical foundations and results, showing that these two concepts are actually different and featured with different characteristics in functions and ways to interact with the host society. If adaptation is viewed as a comparatively passive in interacting with the host society.

¹¹ Budyta-BudzyDska, "Chapter 3 . Adaptation , Integration , Assimilation an Attempt at a Theoretical Approach."

Then, integration can be deemed as a **mutually** interactive relationship between the immigrants and the host society.¹²

The differences of integration and assimilation heavily rely on their actors. Under assimilation, the actors are the minority groups, which are originally outside the host society. Assimilation is more like a one-way process of the immigrants transforming themselves in values, national or cultural identity, which are related to one's essence. The result of assimilation, undoubtedly, is to become similar with the members of receiving society. But the actors in integration include not only the minority groups, but also majority groups, which are from the host society. Henceforth, the possibilities of changes also can occur in the majority groups, which means the essence of immigrants can possibly influence the nationals, leading the host societies to make some changes for the sake of immigrants.¹³

Some scholars will claim that assimilation should be the consummate goal of a country to reach, since assimilation is a more comparatively stable state for a country. However, the application of this concept was also questioned by other groups of scholars (Adrian Favell, 2010).¹⁴ The reason is that assimilation cannot express and also include the implication of social engineering, nor can the concepts such as

¹² H. B. Entzinger and Renske Biezeveld, "Benchmarking in Immigrant Integration," (2003).

¹³ Budyta-Budzyńska, "Chapter 3 . Adaptation , Integration , Assimilation an Attempt at a Theoretical Approach."

¹⁴ Adrian Favell, "Integration Nations: The Nation-State and Research on Immigrants in Western Europe" (2003).

“adaptation”, “acculturation”, “multiculturalism”, even the concepts such as “social cohesion”, and “toleration”, which were raised in recent years (Ko, 2016).¹⁵ However, integration can include all of these concepts in largest extent. In the view of Favell, integration is “an ideal end-goal for society as a whole”.¹⁶ Compare with assimilation or adaptation, both see the immigrants as passive actors and expected immigrants to adapt the receiving society. The concepts of integration see majority and minority as a whole people who can interactively influence, maximumly avoid the potentials which would lead to deviation and confusions theoretically and practically.

Dimensions of Integration

Under integration, there are four dimensions, which compose an immigrant’s life.

The concept of integration, in the past decades, has had multiple ways been explained by scholars, even the dimensions of integration. The researcher took the concept from Bosswieck and Heckman as bases of research.

Bosswieck and Heckman (2006) proposed four types of integration, namely structural integration, cultural integration, interactive integration and identificational integration. Structural integration represents the acquisition of civil rights, identity,

¹⁵ 柯雨瑞、孟維德、徐嘉助、陳佩詩、徐喜助, “我國移民融合機制之實際成效與可行對策之研究：從「移民融合政策指標」(Mipex)之角度開展”, *警學叢刊* (2017).

¹⁶ Favell, "Integration Nations: The Nation-State and Research on Immigrants in Western Europe."

and status of the person to participate in the core system such as: labor market, education, housing, medical system. Cultural integration suggests acquiring the core capabilities of mainstream society and culture, such as: language and culture.

Interactive integration refers to important interpersonal relationships and acceptance adaptation of immigrants in social networks, such as: friendship, partner, marriage, membership of spontaneous organizations. Lastly, identificational integration, which involves the subjective level of acceptance of the receiving society toward immigrants and means that migrants can have a sense of belonging and identity in the mainstream society (Bosswick & Heckmann, 2006).

In the perspective of the researcher, both groups of scholars' concepts are applicable (Entzinger and Biezeveld, Bosswieck and Heckman). Bosswieck and Heckman (2006) subdivided the integration dimensions in more detail ways. Based on the differences and their applicability concerning immigration integration, the researcher decided to make use the concepts interactively to make research complete. Hence, the researcher will sort out the integration dimensions and their indicators with tables to demonstrate them more clearly.

Table1-Dimensions of integrations (Types of integration) and referring items

Dimensions of integrations (Types of integration)	Referring items
Political Dimension (Structural integration)	Related to political participations such as voting rights.
Economic Dimension	Related to access to engage in labor

(Structural integration)	market.
Cultural Dimension (Cultural integration)	Related to knowledges in language and cultural
Social Dimension (Structural integration)	Related to have rights in social welfare systems, health system, any activities of social interactions.

Source: collected by the author¹⁷

Indicators of integration

To reach integration, it is not enough to know the dimensions of integration. Further, we need to know the indicators of integration to see whether a country reach integration.

Hence, the following indicators are determinants to examine integration in a society.

Table 2-Dimensions of integrations (Types of integration) and indicators of integration

Dimensions of integrations (Types of integration)	Indicators of integration
Social integration (Structural integration)	<ul style="list-style-type: none"> ● Social security ● Level of education ● Housing and segregation
Economic integration (Structural integration)	<ul style="list-style-type: none"> ● Income level ● Employment
Cultural integration (Interactive integration)	<ul style="list-style-type: none"> ● Attitude towards basic rules and norms of the host country ● Frequency of contacts with host country and country of origin ● Choice of spouse ● Language skills ● Delinquency
Legal and political integration (Structural integration)	<ul style="list-style-type: none"> ● Numbers of migrants naturalized annually or who obtain a secure residence status

¹⁷ Entzinger and Biezeveld, "Benchmarking in Immigrant Integration."

	<ul style="list-style-type: none"> ● Numbers of migrants with dual citizenship ● Participation in politics ● Participation in civil society
Attitudes of recipient countries (Interactive integration)	<ul style="list-style-type: none"> ● Reported cases of discrimination ● Perceptions of migrants by the host society ● Incidence and effects of diversity policies ● Role of media

Source: collected by the auothor¹⁸

Integration Policy

What are the relationships between the immigration integration and integration policy? Firstly, we need to single out the word “policy”. Here are some statements concerning policy:

“Public policy is the broad framework of ideas and values within which decisions are taken and action, or inaction, is pursued by governments in relation to some issue or problem” (Brooks, 1989).”

“A Policy can be considered as a "Statement of Intent" or a "Commitment". The term may apply to government, private sector organizations and groups, and individuals.

¹⁸ Ibid.

Presidential, executive orders, corporate privacy policies, and parliamentary rules of order are all examples of policy. Policy differs from rules or law. While law can compel or prohibit behaviors (e.g., a law requiring the payment of taxes on income), policy merely guides actions toward those that are most likely to achieve a desired outcome (Buyera, 2012).”

In the process of integration, the states play critical roles, so as the policy. The reason is the policies are the assistances so that both the immigrants and the states can reach integration. Based on the statement above, the integration policy is an action guideline or aid to deal with the affairs which are related to integration. Furtherly, in the aspect of immigration integration, integration policy is a tool and step to reach the goal of integration in a state.

Immigrant assistance(guidance) in Taiwan

The relevant authorities which are mainly responsible for affairs related to immigration policy are listed below:

- Executive Yuan

- Ministry of the Interior
- Ministry of Health and Welfare
- Ministry of Education
- Ministry of Foreign Affairs
- Municipal governments (local governments)¹⁹

This part is not only aimed at describing the goals of immigrant guidance, but also the problems the immigrants could face in Taiwan.

1. Building complete guidance system to cause new immigrants to fuse in the lives of Taiwan society
2. Solving the problems that immigrants could face, including
 - The adaptation in daily livings: The barriers and myths caused by cross-cultural, language, and customs. All the causes mentioned above could also lead to the problems of communication, and adaption.
 - Family and marriage: Interaction with receiving family, mutual trust, domestic violence, economically disadvantaged issues, personal safety
 - Social identity: Gender inequality, stereotypes toward denized spouses, ethnic integration(racial), discrimination caused by social status.
 - Employment: Shortage in information, personal shortage in knowledge and techniques, the problem of seizing the opportunities of employment training, the treatment in working place and grievance procedure.
 - Education: Parent-child interaction and education, language instruction, further study.
 - Identity: Under acknowledged of laws and regulations, access to service information.
 - Medical: Health, seek for medical advice, eugenic health.
 - Social Welfare: The application of social assistance, and social relief²⁰

¹⁹ 臺北市政府, "臺北市政府 110 年 1 至 6 月新住民照顧服務措施辦理情形彙整表," (2021).

²⁰ 楊翹楚, *移民政策論與實務* (元照出版公司, 2019).

Caring Policies and Guidance measures for new immigrants

In 1999, Ministry of the Interior launched “Enforcement Plan for foreign spouses’ life-adjustment guidance”. In May 2003, “Caring Policies and measures for foreign and mainland spouses” (Hereafter “Caring and Guidance measures”) was implemented. In 28, July 2004, the meeting in Ministry of the Interior got the result to raise “fund for caring foreign spouses”. In 2005, “fund for caring and assisting foreign spouses” was officially established. The goal of this plan is to raise 300 million each year, and 3 billion in decade, immigration agency is mainly taking responsible for this plan. This plan is aimed to strengthen immigrant system, promote assistance service, integrate resources from government and nongovernmental organization, and to build multicultural societies. In 2015, this plan was renamed and established as “New Immigrant Development Fund”, budgeting billion per year. In order to find potentials of new immigrants and their children, provide employment opportunities, encourage social participation, and stimulate international competitiveness, a project named “New Immigrant Enhancement Project” was set up.²¹

In 2018, Ministry of Interior amended Caring and Guidance measures for New Immigrants include eight aspects:

Table 3-Items and details of Caring and Guidance measures in Taiwan

Items	Details of Measures
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²¹ Ibid.

<p>Guidance of life-adjustment</p>	<ul style="list-style-type: none"> ● Promotion of life-adjustment counseling classes ● Provide service and related information for new immigrants' life-adjustment counseling ● Strengthen the functions of the New Immigrants' family service center and the Immigration Agency's service stations in each county and city. ● Strengthen the personnel training of immigration care service ● Combining the resources of civil society ● Provide legal consulting services ● Strengthen the consultation and assistance about Taiwan in their original country ● Strengthen the pre-entry of nation-gate counseling mechanism ● Strengthen training of interpreters ● Set up related social welfare and aid service for new immigrants before household registration
<p>Medical care, Pregnancy, Health care</p>	<ul style="list-style-type: none"> ● Assist new immigrants to join the National Health Insurance ● Provide general maternity check-ups and subsidies for pregnant women of new immigrants ● Promote the health check of nationals and foreign spouses before entry ● Carry out health care management for new immigrants
<p>Guarantee for employment rights</p>	<ul style="list-style-type: none"> ● Provide employment services for new immigrants ● Provide professional training to cultivate entrepreneurial ability,

	employability
Education	<ul style="list-style-type: none"> ● Establish basic adult education seminars for new immigrants ● Strengthen education planning for new immigrants and their children ● Hold family education activities for new immigrants' families ● Conduct the training of teachers for basic education for new immigrants and develop supplementary teaching materials ● Subsidy local governments to establish new immigrants' learning centers, combining local governments and schools' characteristics ● Conduct Southeast Asian language learning program during winter and summer vacations ● Compile textbooks for learning languages ● Grant scholarships to new immigrants and their children
Children-Raising Assistance	<ul style="list-style-type: none"> ● Incorporate the children of immigrants into the infant health protection system ● Strengthen the process of child development screening for children of new immigrants ● Provide early intervention services as needed ● Strengthen the tutoring of language and socio-cultural learning for children of new residents, continuing to organize related activities in conjunction with legal entities and organizations ● Hold seminars that are related to

	<p>educational methods regularly</p> <ul style="list-style-type: none"> ● Handling a national multilingual and multicultural picture book competition for parent-child reading experience selection ● Provide visits to high-care families for children, whom need more attention to pay
Personal Safety	<ul style="list-style-type: none"> ● Integrate related service resources ● Prevention education and training of relevant personnel involved in protective case services ● Strengthen the promotion of new immigrants' personal safety precautions
Regulations	<ul style="list-style-type: none"> ● Strengthen the investigation and punishment of illegal profit-making behaviors and advertisements of cross-border marriage matchmaking ● Continue to collect and establish relevant statistics ● Semi-annual review of each agency's handling situation and evaluation
Concept propagation	<ul style="list-style-type: none"> ● Strengthen the review mechanism for new immigrants' applications for entering Taiwan (Including formal examination and substantive examination) ● Use various marketing channels to promote the positive attitude of the citizens toward different ethnic groups ● Promote communities or civil organizations to organize multicultural activities ● Promote the concept of cultural equality, the multiculturalism of

	new immigrants, and handle multicultural related activities to promote cultural exchanges and cognition
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Source: 移民政策論與實務²²

Compare with the traditional immigration countries around the world, Taiwan seems more immature in policy making and dealing with the matters related to immigration. Or Taiwan can also be called as a “rising immigration destination”. Hence, in making immigration policy, there still a vast room for Taiwan to improve.

What should be emphasized here is: the name how Taiwanese will call immigrants and the kinds of migrants. In Taiwan, there is a name to call immigrants, that is new residents. Moreover, the differences of historical background also influence the concentration of immigration policy and the categorizations of immigrants. The contemporary immigration history of Taiwan required more migrant workers, marital immigrants occupied Taiwan’s immigrants’ population, hence, the related policies and measures concentrate more on migrant workers and marital immigrants.

The concept of immigration policy in the 2nd Basic Plan in South Korea

*Immigration policy refers to policies encompassing matters on border control, immigration, nationality, and social integration for immigrants. It does not deal with emigration issues.*²³

²² Ibid.

²³ Prabuddha Ray and Sarthak Chowdhury, "Challenges in Indian Agriculture and Its Implications for

The main policies, measures, and acts are listed below:

- Korea immigration act
- Framework act on treatment of foreigners residing in the republic of Korea
- Act on the Treatment of Foreigners in Korea
- Act on the Treatment of Foreigners in Korea Enforcement Decree
- The 2nd Basic Plan for Immigration Policy
- Regulations on the Establishment and Operation of Schools and Kindergartens or Foreigners
- Act On the Employment, Etc. Of Foreign Workers
- Enforcement Decree of The Act on The Employment, Etc. Of Foreign Workers²⁴

Relevant act, measures, and policies:

1. National Action Plan for the Promotion and Protection of Human Rights of the Republic of Korea

In the second Basic Plan of Korean Authorities, it explained firstly the definition of related terms. It includes the meaning of policy and limitations of the term “policy”. Also, it explained the reasons that when the 1st Basic Plan was adopted, the issues of terms usages. Mostly, the general will be confused by the word “immigration” and “emigration”. Moreover, while referring to terms such as “immigration policy,” “multicultural policy,” “multilateral family policy,” and “immigrant spouse policy”, each ministry usually refers them not precisely, which leads to overlapping and uncoordinated in policy implementation. Based on this cause, when 2nd Basic Plan was launched, this very version of immigration policy refers to border control and immigrants, as what is practiced in the countries all around the world. ²⁵

Organizing Extension," *International Journal of Social Sciences* 4, no. 2and3 (2015).

²⁴ Commission, "The 2nd Basic Plan for Immigration Policy."

²⁵ Ibid.

The scenarios of Immigration Policy in South Korea

The relevant authorities which are responsible for affairs related to immigration policy

are listed below:

- Ministry of Strategy and Finance (MOSF)
- Prime Minister's Office (PMO)
- Ministry of Strategy and Finance (MOSF)
- Ministry of Foreign Affairs and Trade (MOFAT)
- Ministry of Justice (Assistant Administrator) (MOJ)
- Ministry of Public Administration and Security (MOPAS)
- Ministry of Culture, Sports and Tourism (MCST)
- Ministry of Food, Agriculture, Forestry and Fishery (MIFAFF)
- Ministry of Knowledge Economy (MKE)
- Ministry of Health and Welfare (MOHW)
- Ministry of Employment and Labor (MOEL)
- Ministry of Gender Equality and Family (MOGEF)
- Ministry of Land, Transport and Maritime Affairs (MLTM)
- Ministry of Oceans and Fisheries (MOF)
- Korea Communications Commission (KCC)
- National Police Agency (NPA)
- Small and Medium Business Administration (SMBA)
- Korea Coast Guard (KCG)²⁶

Figure 3-The Immigration Policy Commission

²⁶ Ibid.

The Immigration Policy Commission	Establish welfare system for immigrants and their offspring [MOHW]
	Prevent possible threats to national security [NPA, KCG]
	Enhance cultural diversity [MCST]
	Support multicultural families [MOGEF]
	Help attract human resources from overseas [MKE, MEST]
	Help immigrants settle in Korea [MOPAS, local government offices]

Source: The 2nd Basic Plan for Immigration Policy in South Korea²⁷

Even having comparatively complete policy, Korea still encounters some barriers in overall situation. There are several critical problems that are pointed out by this action plan, which are considered to limit the policy. First, it's the concept of "multicultural". As aforementioned content about reasons of amendment, "immigration policy," "multicultural policy," "multilateral family policy," and "immigrant spouse policy", are used and interpreted by relevant ministries. This directly or indirectly leads to the unbalanced distribution of social benefits. According to the statement of 2nd Basic Plan. In 2012, 95 % of governmental budget should be allocated to social integration. However, this very budget just flowed to immigrant spouses and their descendants. The

²⁷ Ibid.

amount reached KRW 1.18 trillion (95%) in 2012, up from KRW 87.76 billion (75%) in 2011. ²⁸

Another one is unskilled foreigners and their overstaying their visas. Even though the Korean government has selectively accepted unskilled labor, the ratio of low-skilled workers to foreigners with employment eligibility is still high. Among legal foreign workers, the number of unskilled workers reached 547,000 (92%) in 2011, 513,000 (92.1%) in 2010, 511,000 (92.6%) in 2009, and 511,000 (93.2%) in 2008.

Foreign workers who enter Korea on a work permit are increasingly overstayed their visas. Under the work permit system adopted in 2003, foreigners have been allowed to stay as long as 118 months, requiring the relevant ministries to brace ourselves for ensuing problems.²⁹

In policy implementations, South Korea and Taiwan carry out in the same ways that laws and policies are set by central government, giving local governments the authorities to implement the policies.³⁰

Table 4-Policy changes of goals from 1st Plan to 3rd Plan

1st Plan (2007-2012)	<ol style="list-style-type: none"> 1. Strengthening national competitiveness through aggressive opening 2. social integration of high quality 3. Realization of an orderly immigration administration
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²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

	4. Human rights advocacy for foreigners
2nd Plan (2013-2017)	<ol style="list-style-type: none"> 1. Opening: economic activation and recruitment of the talented 2. Integration: social integration in which the common values of Korea are respected 3. Human rights: prevention of discrimination and respect of cultural diversity 4. Security: a safe society for the people and foreigners 5. Cooperation: joint development with the international community
3rd Plan (2018-2023)	<ol style="list-style-type: none"> 1. Orderly opening that the people sympathize with 2. A society integrated with immigrants' independence and participation 3. A safe society that peoples and immigrants make together 4. A just society where human rights and diversity are respected 5. Future-oriented governance based on cooperation

Source: Multiculturalism in South Korea: examining government aspirations through the second basic plan for immigration (Peter G. Ghazarian, 2018)³¹

³¹ Peter Ghazarian, "Multiculturalism in South Korea: Examining Government Aspirations through the Second Basic Plan for Immigration," *Multicultural Education Review* 10 (2018).

MIPEX

MIPEX, named as Migrant Integration Policy Index in full. A tool to measure policies for migrant integration in countries across five continents. The targeted groups include all EU Member States (including the UK), other European countries (Albania, Iceland, North Macedonia, Moldova, Norway, Serbia, Switzerland, Russia, Turkey and Ukraine), Asian countries (China, India, Indonesia, Israel, Japan, and South Korea), North American countries (Canada, Mexico and US), South American countries (Argentina, Brazil, Chile), and Australia and New Zealand in Oceania.

In the official MIPEX report, one question will be set as a direction to measure the very aspect of the policies. Follow with the questions that will be a list of indicators to more detailly elaborate to set the requirements that the policies should meet.

Table 5-The scores of Policies and their corresponding extent

Scores	Extent
80-100	Favorable
60-79	Slightly favorable
41-59	Halfway favorable
21-40	Slightly unfavorable
1-20	Unfavorable
0	Critically unfavorable

Source: Migrant Integration Policy Index 2020³²

³² Giacomo Solano and Thomas Huddleston, *Mipex2020 (Migrant Integration Policy Index) (2020)*.

Labor market mobility

“Do immigrants have equal rights and opportunities to access jobs and improve their skills?”

“Labor market integration happens over time and depends on the general policies, context, immigrants' skills and reason for migration. Certain effective employment policies may be too new and small to reach the many non-EU citizen men and women in need, who rarely access any training or benefits.”³³

Table 6-Policy Indicators of Labor market mobility (2011)

<p>1. LABOUR MARKET MOBILITY</p> <p>1.1 Access</p> <p>1. Immediate access to employment</p> <p>2. Access to private sector</p> <p>3. Access to public sector</p> <p>4. Immediate access to self-employment</p> <p>5. Access to self-employment</p> <p>1.2 Access to general support</p> <p>6. Public employment services</p> <p>7. Education and vocational training</p> <p>8. Recognition of qualifications</p> <p>1.3 Targeted support</p> <p>9. State facilitates recognition of qualifications</p> <p>10. Measures for economic integration of third-country nationals</p> <p>11. Measures for economic integration of migrant youth and women</p> <p>12. Support to access public employment services</p> <p>1.4 Workers' rights</p> <p>13. Accessing trade unions</p>
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³³ Ibid.

- | |
|---|
| 14. Accessing social security
15. Working conditions
16. Information policy |
|---|

Source: Migrant Integration Policy Index III 2011³⁴

Table 7-Policy Indicators of Labor market mobility

- | |
|---|
| 1. Immediate access to labor market
2. Access to public sector
3. Access to self-employment
4. Public employment services
5. Education, vocational training, and study grants
6. Recognition of academic qualifications
7. Economic integration measures of TCNs
8. Economic integration measures of youth and women
9. Access to social security |
|---|

Source: Migrant Integration Policy Index 2020³⁵

MIPEX evaluation of Taiwan and South Korea

Currently, Taiwan is not included in the member states of MIPEX, however, thanks to the domestic scholars' efforts and their insights of the urgent need of dealing with domestic integration affairs. Hence, in 2017, PhD. 柯雨瑞(hereafter refers as Ko) , PhD. 孟維德, PhD.徐嘉助, PhD.徐喜助,and PhD.陳佩詩 from Central Police University corporately work out an research called: A Study on the Effectiveness and Strategies of Immigrant Integration Mechanism in R.O.C : Based on MIPEX. This very study provided a broader view for the researcher in looking into Taiwan's position in

³⁴ Thomas Huddleston, "Migrant Integration Policy Index (2011)," (2011).

³⁵ Solano and Huddleston, *Mipex2020 (Migrant Integration Policy Index)*.

MIPEX report.³⁶

This paper mentioned earlier is a measurement conducted for Taiwan, using MIPEX's research methodology. The purpose is to integrate the complicated national legal system and finally express the degree of immigration integration with a concise measurement value. In terms of research restrictions, the selected and used policy guidelines and laws are which are effective until October 2015. The MIPEX 3rd (2011) edition assessment form is used as the research tool, handing to experts and scholars fill in the assessment. In this version, the aspect of health was not yet added.

The application of the MIPEX index measurement tool framework is based on systematic scientific steps and methods. The result of the measurement is clear and precise quantitative and qualitative data, which can be objectively compared, analyzed, so is the reason the MIPEX being used.

As for the aspect of South Korea, same groups of researchers with the exceptions of PhD.徐喜助, and PhD.陳佩詩, conducted another project in the same year called: A Study on the Current Status, Performance, and Strategies of Immigrant Integration in South Korea Based on MIPEX : an Inspiration to Taiwan. This project is based on the report from MIPEX to develop this very project.³⁷

³⁶ 柯雨瑞、孟維德、徐嘉助、陳佩詩、徐喜助, "「我國移民融合機制之實際成效與可行對策之研究：從「移民融合政策指標」(Mipex)之角度開展".

³⁷ 柯雨瑞、孟維德、徐嘉助, "從「移民融合政策指標」(Mipex)探討韓國移民融合機制之現況、成效與對策：兼論對我國之啟示," *ibid.*

Table 7-The MIPEX scores of Taiwan and South Korea

Indicators	Score of Taiwan	Extent	Score of South Korea	Extent
Labor Market Mobility	36	Slightly unfavorable	81	Favorable
Family Reunion	51	Halfway favorable	60	Slightly favorable
Education	54	Halfway favorable	56	Halfway favorable
Political Participation	11	Unfavorable	60	Slightly favorable
Permanent Residence	49	Halfway favorable	62	Slightly favorable
Access to Nationality	43	Halfway favorable	45	Halfway favorable
Anti-discrimination	53	Halfway favorable	54	Halfway favorable

Source: 從「移民融合政策指標」(Mipex)探討韓國移民融合機制之現況、成與對策：兼論對我國之啟示³⁸、「我國移民融合機制之實際成效與可行對策之研究：從「移民融合政策指標」(Mipex)之角度開展」³⁹

³⁸ *ibid.*

³⁹ 柯雨瑞、孟維德、徐嘉助、陳佩詩、徐喜助, "「我國移民融合機制之實際成效與可行對策之研究：從「移民融合政策指標」(Mipex)之角度開展", *ibid.*

Labor Market Mobility

Taiwan

Foreigners entering Taiwan legally to seek employment, language does not pose too many obstacles and challenges to their job hunting, because foreigners working in Taiwan will not encounter additional restrictions such as language tests. However, Taiwan has many restrictions on foreigners or immigrants on seeking employment or private practice in the public and private sectors. The setting of job categories, especially, limits the work potential of immigrants' personal professional skills and qualifications. Under the current legal system, it is difficult to have equivalent working conditions and working rights. Especially blue-collar workers who are regarded as temporary migrant workers cannot immediately enjoy equal rights to transfer their jobs. Taiwan's policy for foreign labor is quite conservative, and immigrants need to meet certain conditions so that they can have a proper opportunity to enter the workplace.⁴⁰

The education and training assistances in employment services and skill upgrading are mostly not the general support that foreign workers can enjoy. Foreign academic and professional qualifications need to go through specific certification procedures. In terms of policy, it seems that there is no special emphasis on improving the

⁴⁰ Ibid.

employability of foreigners and targeted assistance to solve the employment status of immigrants in the labor market. The relevant labor integration measures and legal environment are not considered. The only exception is marital immigration, which is aimed at their employment and professional training, language ability, qualification acquisition, cultural comprehension, and the learning about legal environment, etc. For these aspects, there are assistance policies for them. In addition, the state has a well-planned and friendly propaganda model for the working rights of migrant workers. However, in fact, the protection of labor rights is not perfect, which is not so favorable to labor market mobility.⁴¹

Korea

In Korea, labor market mobility policies generally help foreigners find jobs that match their skills. Foreigners have the right to work in private enterprises or start their own businesses. This part is the same as most countries assessed by MIPEx. Foreign workers have equal labor rights, which is the same as that of several countries ranked in the front, such as Canada, Germany, the Netherlands, Portugal, and Sweden. Like immigration countries that have established comprehensive labor market integration policies, South Korea has well-developed targeted support and similar policy priorities.

⁴¹ Ibid.

Compared with Japan, EU countries in general, and even traditional immigration countries such as Australia or the United States, it has more favorable labor market mobility. (Niessen, 2013).⁴²

South Korea's weaker part is its entry into the labour market and general support. Other countries with high scores, such as Canada, Germany, Spain, and the Nordic countries, tend to allow all residents from foreign countries, including short-term migrant workers, to be able to do so. South Korea's entry into the labor market is only slightly favorable to integration because short-term workers do not have the same rights in transferring jobs and workplace. Obtaining general support is the same in integration, and it is only slightly favorable because South Korea still has restrictions on access to public employment services and higher education for some foreign workers (Niessen, 2013).⁴³

⁴² 柯雨瑞、孟維德、徐嘉助, "從「移民融合政策指標」(Mipex)探討韓國移民融合機制之現況、成效與對策：兼論對我國之啟示," *ibid.*

⁴³ *Ibid.*

METHODOLOGY

To analyze the integration situations between Taiwan and South Korea, the researcher uses content analysis to conduct the research. Firstly, the concepts mentioned in previous chapters, including the concepts of to see under the policy implementation, what is the realities in the societies of Taiwan and South Korea. Hence, all these concepts and indicators concerning integration will be the foundations of the data analysis. Secondly, the research foundation will also be based on the evaluations of integration policies between Taiwan and South Korea, and most critically which are also mentioned in previous chapters. From all these bases, the researcher intends to explain the status quo with the concepts of separation, adaptation, integration, and assimilation to see what the position of immigrants and foreign residents in Taiwan and South Korea under the policy implementations is. To conduct the research, the researcher needs to be clear with the concepts concerning integration to develop the research. Hence, the research will be based on the following research questions:

3. Based on the policy evaluation and the amendment or improvements in policies in recent years, do immigrants, foreign residents, and recipient countries reach integration in terms of labor rights in reality?
4. Based on the previous question, what Taiwan can learn from South Korea in terms

of integration policy and governmental operations for integration affairs?

To analyze the current situations, the researcher will use online news, magazines, press release, academic dissertations, and even articles of social observers to maximumly demonstrate the concepts based on the collected data.

DATA ANALYSIS

Labour Market Mobility- Labors' rights in Taiwan

“Migrant workers are not treated as human beings in Taiwan, but as slaves. They are also afraid of complaints. We have received migrant workers who are almost hysterical, worried that if the Labor Bureau does not deal with it, they will be afraid of being treated badly by their employers.”- Yingda, Wang from Serve the People Association-SPA, Taoyuan ⁴⁴

Just a few sentences, Wang expressed the current situations of migrant workers in Taiwan. Under the crisis of COVID-19, many aspects of our lives are threatened. We are forced to make timely adjustment to meet our needs and correspond the governmental policies. The migrant workers in Taiwan are no exception. However, as aforementioned in evaluation: *“Under the current legal system, it is difficult to have equivalent working conditions and working rights.”* *“The protection of labor rights is not perfect, which is not so favorable to labor market mobility.”*⁴⁵ These statements were from five years ago, which were in 2016. Even we need to thanks to the pandemic force the Ministry of Labor revising *Report on Protection of The Rights for Foreign*

⁴⁴ 吳象元, "行動被限、染疫風險高、住宿環境惡劣，一場讓移工困境現形的新冠肺炎疫情," The News Lens 關鍵評論, <https://www.thenewslens.com/article/152247>.

⁴⁵ 柯雨瑞、孟維德、徐嘉助、陳佩詩、徐喜助, "「我國移民融合機制之實際成效與可行對策之研究：從「移民融合政策指標」(Mipex)之角度開展".

Workers in Taiwan.⁴⁶ (for more details, please see the appendix). However, in recent reports about treatments of migrant workers, mostly, are negative. The issues include notorious working environments, unreasonably forbidding migrant workers' lives under pandemic.

It is normal to restrict the daily activities under pandemic. However, under such environment, there were news reported that migrant workers were forbidden to go out. We need to know that citizens can freely go out even in that kind of situations. This happened before the pandemic broke out in Taiwan. The reflections were from the interview about the affairs and situations of migrant workers. "Regardless of the industry, the commonality is that there is no holiday and no time to go out." He said that before the pandemic rose, families asked caregivers to reduce their time out and complete disinfection when returning home, and some also required migrant workers to sign a closing letter. "If you get sick, you will be responsible for yourself." but the employers themselves have not reduced the frequency of going out. This is one uneven case.⁴⁷

There was another case about migrant workers' living conditions. At the end of May, the foreign fishermen at the fishing port of Qian Zhen, Kaohsiung City, were punished by the Health Bureau when they reported that they did not wear a mask to

⁴⁶ "Report on Protection of the Rights for Foreign Workers in Taiwan," (2021).

⁴⁷ 吳象元, "行動被限、染疫風險高、住宿環境惡劣,一場讓移工困境現形的新冠肺炎疫情".

bathe in a group outdoors. In fact, there is no decent room for washing, so they can only wash in public toilets. In early June, the cluster infection at the KY Electronic Factory also exposed the harsh and crowded migrant dormitories.⁴⁸ Some of the companies which recruiting migrant workers launched the restraining orders to limit the migrant workers going out. These restraining orders were originally meant to correspond policies concerning COVID-19. Yet, the crowded dormitories were accused that these were the potentials causing the spreading of pandemic. These problems existed before the pandemic broke out, not until the breakout of pandemic did these incidents be exposed to the public.

Some migrant workers not only are forced to work with extended hours, having no payment for extending working, but also involved in the works they should not do. For instance, there is a migrant worker who is responsible for caring the elders in families. They are entitled with caregivers but are added with the works such as house cleaning, meal cooking and even being nanny to take care of children.⁴⁹ This seems to be beneficial for employers, nevertheless, this brings in the implication of lack of vocational training. There was a foreign migrant worker who was taking care of the employer's child and was not aware of the abnormality of child and delayed seeking

⁴⁸ 林奐成, "染疫移工宿舍曝光 狹窄擁擠成病毒溫床「侵犯人權」," 聯合報, <https://udn.com/news/story/7320/5520007>.

⁴⁹ Allison 艾厲森, "移工罪與罰：那些血淚交織的在台工作日," 獨立評論, <https://opinion.cw.com.tw/blog/profile/477/article/8543>.

medical attention, causing the child's death, and was charged with negligent homicide.

Labor Market Mobility not only talks about the access to labor market, but also the workers' rights in this aspect. Workers' rights refer to their adequate rights to have vocational training, safe and healthy working conditions, proper working hours. Nevertheless, these are mostly will be intentionally or unintentionally neglected by employers. These cases which mentioned earlier are mostly not meet the indicators in MIPLEX. From the perspective of status quo, these conditions almost usurp workers' rights.

In terms of integration and its policy, Taiwan's current situations toward migrant workers are still not favorable and friendly. Even there are measures for workers' rights, but the regulations, definitions, and punishments concerning violation of workers' rights in terms of laws are still inclusive and not specific.⁵⁰ The lack of comprehensive mechanism in legal environment may cause that policies, laws and implementation are still separated; they are not integrated to solve problems. The potential problem might still happen in the future and the gaps between laws and implementations might still remain.

⁵⁰ 黃秀端 and 林政楠, "移民權利、移民管制與整合—入出國及移民法在立法院修法過程的分析," [Immigrant Rights, Immigrant Regulation and Integration: A Scrutiny of the Legislative Process.] *臺灣民主季刊* 11, no. 3 (2014).

In terms of integration, in the aspect of Labor Market Mobility, migrant workers can be said that they are separated from the host society. The principle of integration is the immigrants, and the society are mutually blending with one another and the society the immigrants can possibly influence the society to change structurally.⁵¹ However, from how some of employers treat the migrant workers in Taiwan, we can see that the migrant workers are passively to receive rules and any kind of treatments. Due to the language barriers, some of the migrant workers do not know how to speak up their situations according to their unfair treatments. The employers, not to mention, even the society' attitude toward migrant workers is not positive and active to take actions to reach integration. These migrant workers are not seen as part of the society, the attitude of people tend to divide them as another groups of people. Hence, they are legally and socially separated from the society.

⁵¹ Budyta-BudzyDska, "Chapter 3 . Adaptation , Integration , Assimilation an Attempt at a Theoretical Approach."

Labor Market Mobility- Labors' rights in South Korea

Supply for daily livings

"The water here freezes in winter," she says. "My room is also usually freezing. It's difficult to live in. My employer gives me drinking water, but it's not so clean, so I have to buy my own."-Migrant worker who worked in the rural area of Miryang city⁵²

Working conditions and threatens from employers

"Working conditions are bad and employers are violating the law, but they still manage to hang onto their workers," he says. "The laborers bite the bullet and stay on because they are warned and threatened that if they leave, they can become illegal immigrants."-

Kim Yi-chan, South Korean labor rights activist

"I had to spray pesticide on the fields every day during a two-month period, which gave me a headache. I wasn't trained on how to do it properly and safely – my employer just told me to do it. He only gave me a cloth mask, which didn't protect me at all... the pesticide still entered my mouth and nose."- man from Cambodia

⁵² Anthony Kuhn, "As Workforce Ages, South Korea Increasingly Depends on Migrant Labor," <https://www.npr.org/2021/06/02/1001194446/as-workforce-ages-south-korea-increasingly-depends-on-migrant-labor>.

Living conditions

Yoon Soo Ryon, a cultural studies professor at Hong Kong's Lingnan University, writes in her research on the issue published last year that the museum's workers "had been given thin mattresses and pieces of plywood as beds, and the house was filled with mold and, sometimes, mice."⁵³

Abusive case

"The manager became furious and grabbed me by the collar. The manager's younger brother held me by the neck while the manager beat me. They both then punched me all over my body and kicked me."-migrant workers from Cambodia who were physically attacked by their employers⁵⁴

These are the living conditions and how the migrant workers are treated under their employers. In Korea, the law is set to assure the Protection of Rights and Interests of Foreign Workers. However, the real situation is another story. In 2014, a report from Amnesty International concerning abuse of migrant farm workers mentioned that:

⁵³ Ko Jun-tae, "[Us and Them] Migrant Workers' Struggles in Korea Continue Despite Better Awareness," The Korea Herald, <http://www.koreaherald.com/view.php?ud=20211011000208>.

⁵⁴ Amnesty International, "South Korea: End Rampant Abuse of Migrant Farm Workers," Amnesty International, <https://www.amnesty.org/en/latest/news/2014/10/south-korea-end-rampant-abuse-migrant-farm-workers/>.

“The research found that when migrants did seek help from the authorities to address unfair treatment, they were actively discouraged from taking the issues forward. Often they were told to go back to their employers and apologize or to ask them to sign a release form.”⁵⁵

Article 10 (Safeguarding Human Rights of Foreigners, etc. in Korea)

The State and local governments shall endeavor to take necessary measures, such as the conduct of education and publicity activities, to prevent unreasonable discrimination against foreigners in Korea and their children and to safeguard their human rights.⁵⁶

Even the existence of protective law for foreign workers can still not guarantee their rights. There are two sides can develop the analysis. One is the side from authorities. When migrant workers did speak up their unfair treatment, the authorities, which should be the one to guarantee their rights, however, the responses were rather confusing than reasonable. The migrant workers have received the unfair treatments, what they need is the quick solutions to leave the place where might be harmful for them. But the authorities convinced them to back to the employers.

⁵⁵ Ibid.

⁵⁶ Ministry of Justice, "Enforcement Decree of the Framework Act on Treatment of Foreigners Residing in the Republic of Korea," ed. Korean Law Information Center (2017).

The other side is from the employers. As Kim mentioned above that even the migrant workers saw their employers violating the law, they could not say anything since they might be threatened about their identity. However, all these matters mentioned in law in black and white. About the matters of living conditions, necessities of life supply, working conditions, all of these should be considered as the rights of workers. But they are legally usurped their rights.

“Korea has long seen itself as a homogeneous culture, not as an immigrant nation or multicultural society.” - Chung Ki-seon, migration expert at Seoul National University⁵⁷

As for the aspect of integration, we need to see how the society perceive these migrant workers around them. From this statement we can see that this perception hinders the integration at some extent. Above the researcher mentioned mainly about the integration from policy aspect. However, the attitudes from authorities can greatly influence the attitudes of citizens toward migrant workers. If the authorities' attitudes are negative and passive to solve issues concerning migrant workers, so will the employers' attitudes toward migrant workers, which might lead the situations worse in treating migrant workers. Hence, from the perspective of policy influencing society' perceptions, and the concept of homogeneous culture, the status quo of integration in

⁵⁷ Kuhn, "As Workforce Ages, South Korea Increasingly Depends on Migrant Labor".

Korea is still not yet reached in terms of workers' rights. If a receiving society does not conceive themselves as an immigration country, basically, it will take a quiet amount of time for them to receive the concept of integration. Restrictively speaking, the society still has process to go in terms of integration. Naturally, it could be difficult for them to take the actions to reach integration. Hence, from the perspective of migrant workers, they are passively receiving what the employers gave them, being frightened to go against employers. To some extent, this fear hinders their motivation to integrate into the society. In principle of integration, they passively change their behaviors to adapt the society. They are separated in terms of policy and adaptation in social integration. All in all, the policies and social attitudes are still not friendly and favorable for immigrants in Korea. From the perspective of employers, their attitudes toward migrant workers are also not favorable for migrant workers. It is not only they legally neglect their rights but also their basic rights and needs in their workplace, living conditions, and take advantage of migrant workers. In principle, the stage of immigrants, foreign residents, or migrant workers still not yet reach integration with the receiving society.

CONCLUSION

Generally, the status quo of Korea and Taiwan are mostly the same. The existent law or policies cannot serve for the immigrants in their needs. The existent measures, policies, and laws as examples. Most of them are inclusive in dealing with the treatments of foreigners within their borders. There is no further regulations or provisions to deal with violating the law. Take Taiwan as an example, Taiwan's labor law penalties are mainly based on administrative penalties. A few provisions have criminal liabilities. However, for violations of minimum labor conditions such as wages, working hours, rest, and vacations, employers only have administrative penalties and no criminal liabilities. Moreover, the administrative fines are too low, resulting in employers generally not actively complying with the "Labor Law". Put aside the attitudes of employers, the legal environments in Taiwan and South Korea can be said unfriendly for migrant workers. Lacking this kind of fear, automatically, the employers can just do according to their willing, neglecting the sanctions from the laws. This kind of contempt leads to despise workers' rights, furtherly resulting in unfair treatment. Hence, to create an environment for integration, the efforts from citizens and the authorities are equally critical since both sides can greatly influence each other. And these influences will greatly determine when a state can reach integration by what ways.

Suggestion

From legal environment, both Taiwan and South Korea can make the immigration policies and relevant laws concerning labors more specific in their penalties to create a more comprehensive mechanism in terms legal environment. Not just inclusively regulate what employers cannot do. From the cases in Taiwan and South Korea we have seen that it is not enough to have inclusive laws. The critical point is to find out what is the real situations of migrant workers are facing, from these problems in the situations to develop the amendments of laws. Otherwise, the laws and the implementations would always have great gaps that cannot be filled.

In the operations of Taiwan's immigration agency, Taiwan can learn from Korea in terms of dealing with integration. Since the policies for foreign residents now in Taiwan are mostly for foreign spouses and their livings, few policies are specifically for migrant workers. Hence, in terms of carrying out integration, Taiwan can set an action plan as South Korea do. This plan not only includes the goals of immigration policy, but also the relevant ministries serving for immigrant integration, all the details to carry out this plan. As mentioned in previous chapters, Taiwan does not have explicit name for integration policy. This learning can be a good first step to reach integration.

Secondly, the measures and policies concerning immigrants and foreigners mostly lean to take care of foreign spouses, few are specifically for migrant workers. Hence, it

might be helpful for Taiwan to add the laws for foreign workers for protection of rights and interests of migrant workers. Furthermore, the incidents concerning violation of workers' rights sometimes reflected with the language barriers. While the researcher reviewing relevant official documents, the researcher found out that some of the measures for foreigners did not be translated into English or foreigners' mother tongues. This might cause immigrants' unawareness in legal dimensions, furtherly leads to their rights be taken away. The researcher suggests that the documents be translated into English and migrants' mother tongue to foster the understanding of their rights.

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APPENDIX A

Report On Protection of The Rights for Foreign Workers in Taiwan

I. INTRODUCTION

In recent years, the unbalanced labor supply and demand in Taiwan has resulted in a lack of basic manpower. This can be attributed to a number of economic factors such as the transformation of industrial structure, rising per capita income, rapid growth in service industries, higher education levels, and a change in job values. In response to these issues, the Council of Labor Affairs (MOL) decided to open up Taiwan's job market to foreign workers starting in October 1989. Foreign workers from Thailand, Philippines, Indonesia, Malaysia, Vietnam and Mongolia are now employed in Taiwan as part of the government's efforts to solve the problems of labor shortages.

As of the end of December 2020, there were 709,123 foreign workers in Taiwan, of which 61.96% were in manufacturing, 0.87% in construction, 1.65% in agriculture, forestry, fishery and animal husbandry, 35.28% as caretakers, and 0.24% as domestic helpers.

This initiative has benefited Taiwan economically and socially:

1. It supplies more basic manpower needs as well as encourages small and medium enterprises (SMEs) to keep their investment in Taiwan and offer more job opportunities.
2. It allows Taiwan to utilize global human resources to increase national competitiveness and speed up public construction.
3. It provides sufficient caretakers to those households in need, so that productive

manpower can fully participate in the job market.

Foreign workers need to make extra efforts to adapt into Taiwan's working environment due to language barriers, differences in religious belief, cultures and life patterns. This means that much more care from the public is needed for these workers. This thought is made for reasons of humanity, justice, fairness as well as being a gesture to respond to the contribution made by the foreign workers to Taiwan's economic development, embodying the traditional values of this country.

II. FUNDAMENTAL PRINCIPLES

Taiwan is less likely to host a large number of immigrants because it is a small and densely populated island nation. Foreign workers are however introduced into Taiwan as "Guest Workers" because they are considered supplementary to the country's job market and economic development. The government has

no intention of making differences between the foreign workers and the local citizens.

Though some restrictions are imposed on foreign workers, significant efforts have been made to ensure the equality of their treatment, labor standards and legitimate rights in their host country. Under no circumstances will the government allow foreign workers on the island to be maltreated, rejected or left helpless. In short, the legitimate rights of foreign workers in Taiwan are well protected by the following fundamental policies:

1. Fundamental Rights: Equality and Justice

Foreign workers leave their home country with the hope of earning more money than what is being offered in their country of origin. Their legitimate rights must not

be deprived in any way. During the process of obtaining job opportunities, foreign workers often find that some external forces are taking a portion of their earnings. Whether these shares are reasonable should be a subject of fair and just scrutiny.

2. Employment Rights: National Treatment

Article 7 of the Universal Declaration of Human Rights states that “All are equal before the law and are entitled without any discrimination to equal protection of the law.” Every foreign worker in Taiwan, therefore, is under the protection of pertinent laws. These include the Labor Standards Law (LSL) that offers nondiscrimination and legitimate protection in minimum wages, working hours and working conditions as well as benefits regulated under the Labor Insurance Regulations and the Employee Benefit Regulations.

3. Living Rights: Universal Principle

Foreign workers leave their homes and families behind for employment in an unfamiliar society, where mutual understanding between them and local citizens is of utmost importance. In this regard of understanding efforts have been made to help foreign workers understand more about local communities

and offer workers a mechanism in counseling and adaptive service, so that they can feel at home and enjoy their stay in Taiwan.

III. SUBSTANTIAL MEASURES

1. Protecting the Fundamental Rights of Foreign Workers
 - (1) Reinforcing the management of brokerage firms
 - i. Regulation regarding service fee charging standards for Taiwan manpower agencies was revised on November 9, 2001. It stipulates Taiwan manpower agencies can only charge a monthly service fee from foreign workers and shall not charge any broker's fees. The monthly service fee shall not be more than 1,800 NT dollars in the first year, 1,700 NT dollars in the second year and 1,500 NT dollars in the third year. On March 2, 2010, in order to avoid increasing the burden on the part of the foreign workers, the MOL revised the said regulation that requires the broker's fees shall not be collected in advance in line with the commercial practice of "fee for service". As the regulation has been deleted in Article 52 of the Employment Service Act prescribing that a foreign worker shall leave the country for at least one day upon the expiration of the employment, the Ministry modified the broker's fee on April 6, 2017. The service fee collected from a foreign worker shall be calculated based on the period of work after the foreign worker enters the country. To maintain the rights and interests of foreign workers, the monthly service fee shall not be more than 1,800 NT dollars in the first year, 1,700 NT dollars in the second year and 1,500 NT dollars in the third year.
 - ii. The MOL has reduced the service fee as of November 2001 and suggested the expected service fee shall not be more than the foreign workers' monthly minimum wages. The Foreign Worker's Affidavit for

Wage/Salary and Expenses Incurred for Entry into the Republic of China to Work (the Salary/Wage Affidavit) is notarized by the authorities of the foreign worker's home country. The documents will be double checked by the home country. According to the Employment Services Act revised on January 21, 2002 brokers who collect unlawful compensation are subject to aggravation of fines, suspension or revocation of permits.

- iii. To mitigate the foreign labor's burden of excessive broker's fees, the MOL established the "Direct Hiring Joint Service Center (DHSC)" on December 31, 2007. The DHSC assists employers in recruitment of the same employees without going through agencies to eliminate the broker's fees and to shorten the process and time for foreign workers re- entering Taiwan. Services provided include counseling in different languages, query, proxy transfer, proxy send and text message / e-mail sending to remind employers on matters of foreign workers' post-arrival. In 2008, the direct hiring program was first available to the employers who wanted to rehire the same domestic caretakers. As of 2009, the direct hiring program has expanded its services to service the employers rehiring the same foreign workers that work in the manufacturing, marine fishery, construction, institution caretaker and domestic helper industries. Since 2015, the DHSC has worked with countries of foreign workers on the recruitment of labor. The countries of foreign workers recruit foreign workers based on the need of employers, and employers may choose to recruit them in writing, online or in person. The DHSC then helps foreign workers with immigration matters to ensure that employers have foreign workers within the given period. Since 2018, an online application system has been implemented to allow employers to recruit foreign workers and obtain their work permits in

a streamlined way. A one-stop direct hiring service is offered, where a designated person will help follow up on a case and inform the applicant of matters to be dealt with

regarding working in Taiwan, to empower employers' hiring and management of foreign workers. To expand the scope of direct hiring, foreign workers IN workers in Taiwan are allowed to be transferred to new employers since July 2019.

- iv. To improve employer's willingness to employ foreign workers directly, the MOL set up an APP called "Foreign Worker Aid" on August 5, 2014. The APP provides services, such as application procedures for direct employment, news, and searches for the status of application. The Management Portal for Foreign workers in Taiwan was also set up to provide employers services and resources, such as health examinations, resident certificates, and labor and health insurance, to safeguard foreign workers' welfare. From 2014 to 2020, the said portal was optimized by adding services and adjusting contents and functions to improve its usefulness for employers.
- v. The improper kickback going to employers' pocket from manpower intermediary agencies also contributes to high agency fees. The Ministry of Labor has amended the Employment Service Act and related regulations to stipulate that employers' applications for retaining migrant workers shall be disapproved should they receive fee kickbacks thereof. In case their applications have been approved, they shall be revoked whilst the intermediary agency shall be fined with their business suspended as well. On July 14, 2011 the MOL interpreted the definition of "unjust interests" as referred to in Paragraph 6 of

Article 40 and Subparagraph 10 of Paragraph 1 of Article 54 of the Employment Services Act as: the expenses that are supposed to be paid or shouldered by the employer based on legal requirement or contractual agreements, or the value of gifts received by the employer from the brokerage firm that have exceed acceptable value in social ritual or business practices Both tangible and non-tangible profit is included in

this context to prohibit the rebate that employers may request from the brokers in order to safeguard foreign workers' welfare.

- vi. In July 2002, the MOL amended the checklist for local authorities' routine inspections, and the broker's collection of fees has been included in order to reduce broker's fees paid by the foreign workers. Unscheduled inspection visits to employers and foreign workers will be conducted to check whether brokers' collection of fees is consistent with "the Salary/Wage Affidavit" signed by employees. Taiwanese manpower agencies engaging in the excessive collection of fees will be penalized in accordance with the applicable laws and regulations. As for foreign manpower agencies engaging in the excessive collection of fees, they will have their licenses revoked in accordance with Taiwan's "Regulations for Permission and Supervision of Private Employment Services Institution." The cases of offence shall also be referred to the authorities of the labor-sending countries for proper handling.
- vii. The MOL amended the "MOL Evaluation Guidelines for Violation of Employment Services Act by Private Employment Service Institutions and Professionals and for Revocation of Cases" on March 27, 2012 in order to prevent the manpower brokerage agencies from overcharging. Irrelevant with

whether the overcharge is refunded or not, a suspension of 3 months will be imposed on those that violate the Act for the first time and a suspension of 6 months is imposed for those that violate the Act for the second time, a suspension of more than 9 months is imposed each time for those that violate the Act three or more times. An additional suspension of 3 months is imposed if the overcharge is not refunded before the decision on suspension is rendered to prevent the brokers from overcharging effectively.

- viii. To ensure domestic and foreign manpower agencies duly fulfill their obligations in recruitment and care, the MOL amended the Regulations

for Permission and Supervision of Private Employment Services Institution on October 8, 2014, which created a regular inspection and elimination system. If a certain percentage of foreign workers whom domestic manpower agencies have introduced are missing for 3 months, domestic manpower agencies will be penalized and their licenses will not be renewed after expiration. An application submitted to foreign manpower agencies which introduces foreign workers for the renewal of a license will be rejected.

- ix. To improve the quality of service of manpower agencies and information on manpower agencies, the MOL has carried out the evaluation of manpower agencies since 2004; the Regulations for Permission and Supervision of Private Employment Services Institution were also amended on January 3, 2007 to regulate the evaluation and its grading. The quality of service, punishments for violations, and customer services are evaluated annually and classified by Level A, Level B, and Level C. The results of evaluation will be published on the website of the MOL (www.wda.gov.tw) for employers' reference. The

evaluation aims to continuously improve healthy competition and quality of service among manpower agencies. Manpower agencies graded Level C will not be allowed to set branches and are required to make improvements within one year; if they fail to reach Level B in the next year's evaluation, their licenses will not be renewed, forcing them to quit the market and maintaining the positive development of manpower agencies.

- x. On July 6, 2007, the Plan for Implementing the Inspection of Private Transnational Human Resource Agencies by Municipal and City (County) Governments was announced for municipal and city (county) governments to increase the frequency of inspections of agencies with bad appraisals. On August 3, 2015, the said plan was amended to set the frequency of inspections based on the results of evaluations. If any illegal

practices are found during the inspections, severe penalties for transgressions will be implemented by the municipal and city (county) governments.

- xi. To reduce the number of illegal brokers, the MOL amended the Employment Service Act, which stipulates any broker violating Article 45 will be fined an amount of at least NT\$ 300,000 and at most NT\$ 1,500,000; the broker with a recurrent violation within five years shall be imprisoned for a term of at most five years, or detained for hard labor, and/or penalized for an amount of at most NT\$ 2,400,000; in addition, the punishment is imposed based on the number of people instead of cases to eliminate illegal brokers. To deter and severely punish foreigners working illegally, employers hiring foreigners to perform work illegally, or brokers seeking employment for foreigners illegally, the MOL amended the Employment Service Act to increase the fine for the said illegal

behavior based on the degree of illegality; on July 11, 2014, the Executive Yuan submitted the said amendment to the Legislative Yuan for review and determination, but the amendment was returned without review. The MOL remade the amendment and submitted the same to the Executive Yuan for legislation on August 27, 2019.

- xii. To prevent foreign workers from being exploited, the MOL will continue to urge source countries to review the brokers' collection of fees through bilateral labor meetings and verification, while strengthening the management of the brokers' excessive collection of fees.
- xiii. To encourage the public to report employers and private employment service organizations or individuals in violation of the Employment Service Act, the MOL established the Guidelines for Issuing Reward for Whistle-blowing against Violation of the Employment Services Act on September 11, 2015, specifying that whistleblowers will be granted a reward of NT\$20,000~NT\$70,000 based on the number of foreign

workers brokered among foreign workers seized in violation of the Act.

- xiv. To protect the rights and interests of foreign workers, the MOL has amended and promulgated the "Employment Service Act" and added Subparagraph 18 and 19 of Paragraph 1 of Article 40, which would regulate private employment agencies and their employees to prohibit physical assault to job seekers or foreign workers, and imposes on the employees of the private employment agencies the responsibility of actively reporting any incident of suspected personal injury sustained by foreign workers.
- xv. To strengthen the crackdown of illegal overcharges, the local government's

“2020 Plan for Inspection of Fee Charging Situations by Private Employment Service Agencies” was implemented in September 2020, proceeding to the special visiting and investigation of those intermediary agencies that receive complaints about overcharges through the 1955 Laborer Consultation and Complaint Hotline, to protect the rights and interests of migrant workers.

(2) Stopping unjustified repatriation

i. The MOL has required in the “Regulations on the Permission and Administration of the Employer of Foreign Persons” that employers who request for early termination of employment contract/contracts shall go through Verification Processes for the Employment Termination Agreement conducted by local governments to prevent unjustified repatriation. The verification certificate shall be issued by the local city and county authorities upon the completion of the verification processes. The said verification certificate must be attached to the application for a replacement of the foreign labor; otherwise, the application will be denied.

ii. The MOL has subsidized the local governments for the establishment of

foreign workers counseling centers to provide foreign workers with services of psychological assistance, legal consultation, labor dispute settlement, etc. to solve disputes between employers and the employees. The MOL has set up the measures for placement of foreign workers to provide foreign workers with appropriate care in cases where employers are unable to provide accommodation to the foreign workers during the dispute period. Appropriated care is achieved by entrusting the representative offices of the labor sending

countries in Taiwan, religious groups and charity groups.

- iii. On January 16, 2006 at the Taoyuan International Airport and on January 1, 2008 at the Kaohsiung International Airport the MOL set up the first foreign workers service stations to help foreign workers fully understand the pertinent employment regulations, information related to working in Taiwan and to assist foreign workers in solving all disputes incurred before leaving Taiwan. These stations provide arriving foreign workers with orientation services and reinforce their legal awareness in labor- related policies. Foreign worker service counters and multilingual hotlines are also available for foreign workers to file complaints. Bringing all the resources together to build a comprehensive foreign labor service network has been done to further protect the rights of foreign workers. As of May 1, 2012, the MOL organized the seminar to promote the foreign labor related laws and regulations at the service stations located at the international airports on a trial basis. Starting on July 1, 2013 the practice has been expanded to enable foreign workers to understand this country's laws, customs, their own interest and rights. The practice expansion works assuages their fear about being away from home to work in Taiwan alone and helps them be adapted to life in Taiwan.

(3) Prohibition of any form of forced conducts or discrimination

- i. Some employers might detain workers' credentials or part of their salaries as forced savings to prevent foreign workers from "disappearing" however, foreign workers should always keep their passports or alien resident certificates with them according to the Immigration Law of this country. It is therefore strictly

prohibited that employers detain the above- mentioned credentials.

- ii. The prohibition of marriage or pregnancy regulations was amended with related regulations on November 7, 2001 by the MOL to cancel the regulation against marriage during employment period. Starting on November 9, 2002 the pregnancy test from the regular bi-annual medical examination was also cancelled. Foreign workers will follow the regulation based on the “Measures of Inspection and Supervision of Health Examination for Foreign Persons” as announced on January 13, 2004. Foreign workers will take the medical examination 6 months, 18 months and 30 months from their date of entry into Taiwan, however without the requirement of pregnancy tests. Foreign workers will not be repatriated if they fail the pregnancy test.
- iii. The rights of pregnant foreign workers are also protected under the “Gender Equality in Employment Act.” Where foreign labors are employed in the sectors governed by the Labor Standard Law, they may be entitled to the protection of female labor under the Act.
- iv. To protect human rights and take affirmative action in line with international trends, the Ministry of Health and Welfare promulgated the amended Regulations Governing Management of the Health Examination of Employed Aliens on February 6, 2015, excluding AIDS from the list of examination items before/after entry. No foreign worker will be required to participate in the AIDS examination or be repatriated

once found infected; however, foreign workers concerned about infection may participate in the AIDS examination at their own cost. Medical institutions shall only inform the examinee of the result of the examination and shall not inform

the employer. Foreign workers who are verified to be infected may receive treatment in Taiwan at their own cost.

(4) Protection of personal safety

- i. The MOL has integrated all the resources provided by government agencies and set up a reporting system and guidelines of handling the assault cases (including sexual assault, sexual harassment, and physical abuse) incurred with foreign workers. The system will provide the translation services for physical checkups report, filing of legal action, deposition, and court-appearance; also included in the services are emergency shelter arrangements, legal aid, transfer of employers, or returning to foreign workers' home countries, abolishment of employer permits, and disputes settlements, etc.
- ii. On July 1, 2009, the MOL initiated a hotline to provide foreign workers 24/7 bilingual, toll-free consultation and complaints filing service to strength the foreign workers' complaint call services. On November 7, 2016, the MOL integrated the foreign worker protection service center under the Workforce Development Agency with the customer service center under the MOL and the consultation or complaint service center under the Occupational Safety and Health Administration, namely "1955 Hotline."
- iii. To enhance foreign workers' self-protection consciousness, prevent sex abuse, provide the channels for filing complaints, and propagate other relevant legal rights, the "Handbook for Foreign workers in Taiwan" is distributed to foreign workers, service stations in international airports, NGOs, local governments, police stations, immigration agencies, radio

stations, representative offices of labor-sending countries in Taiwan, and places where foreign workers gather.

iv. When hiring foreign workers if the employers, patients to be taken care of by foreign workers, co-living relatives, the employer's representative, the person in charge or anyone that represents the employer in dealing with the labor-related issues has commit any behaviors described as criminal as ruled in the Criminal Act, the employers will not be allowed to hire foreign workers in the future, according to the "Regulations on the Permission and Administration of the Employer of Foreign Workers" revised on December 30, 2010.

v. On April 2, 2015, the MOL revised the "Guidelines for Implementing Subsidies for Management of Foreign Workers" to integrate the resources of the private sector for the promotion of the measures on administration of foreign labor and implement the protection of the rights for foreign workers. Foreign workers who are injured from occupational hazard and not able to work or who are considered as the victim of experiencing physical assault regarding the status of a criminal case are arranged to be sheltered in accordance with the "Guidelines for Temporary Sheltering of Foreign Labor Engaging in the Jobs Specified in Item 8 to Item 11, Paragraph 1 of Article 46 of the Employment Service Act ," the maximum subsidy would be 10,000 NT dollars per person or per case, except for specific cases approved by Workforce Development Agency or local competent authorities, the maximum subsidy would be 100,000 NT dollars per person or per case.

(5) Establishment of Counseling Service Network for Foreign workers

i. The MOL has been subsidizing local governments to set up Counseling and

Service Centers for Foreign Workers to further protect foreign workers' legal rights and assist them for swift adaptation in their

assignments in Taiwan. All centers provide services and information of laws and regulation, psychological counseling, employment adaptation, labor dispute with the help of bilingual personnel.

- ii. In case of the need of counseling or any act such as early termination of contracts without fair reason, maltreatment, detainment of properties, non-payment of salary or sexual assault, foreign workers can file complaints or report to local governments and the center. Starting in July 1, 2009 the MOL set up a 24-hour Consultation & Protection Hotline for Foreign Workers and the people of Taiwan with 7 lines and 21 operators to offer a faster dial and easy-to-remember channel to seek consultation and file a complaint. From January 1, 2013 the 1955 hotline has been expanded to 18 lines and 44 operators to take complaints, provide free legal consultation, make referrals for protective placements, provide information on government services and offer a quick way to resolve complaints. Received complaints are electronically referred to local governments for handling and follow-up. Beginning in February 2011 the MOL further expanded the scope of services offered by its "1955 24-hour Consultation & Protection Line for Foreign workers", offering 24-hour interpretation services concerning adaptation to local life, obtaining medical care, official business, work, or living in Taiwan, as well as sending text messages of legal news services.
- iii. To facilitate a better understanding of the migrant employment business, rights and interests defense, and matters for attention by employers, intermediary

companies, migrant workers, and the general public, the "Information Site for Foreign Worker Rights Defense" (hereinafter referred to as the Rights & Interests Website) was launched in multiple languages (including Chinese, English, Indonesian, Vietnamese, and Thai) on July 27, 2017. Through this site employers and migrant workers can acquire information about employment, rights and interests defense,

laws, and regulations in real time. The Rights & Interests Website has been undergoing continuous incorporation of extensive information, while integrating pre-employment sessions for employers, employment transition for migrant workers, and supplementary training for migrant family caregivers, to offer more complete information.

iv. On July 15, 2019, the Ministry of Labor introduced a user interface in four languages on the Website for migrant workers to access information in their native languages about migrant workers' job transferring and renewing relationships with their employers. Furthermore, on December 31, 2020, a single online filing interface in four languages was introduced on the Website regarding migrant workers' employment transitions and the application for employer change and job transition, allowing migrant workers to check the relevant processing status of their application in their native languages.

(6) Prevention of Trafficking of Foreign Workers

Foreign workers who suffer from human trafficking or are suspected as victims of trafficking shall be placed in shelters. The "Executive Yuan Coordination Meeting on Human Trafficking Prevention" (renamed as "Executive Yuan

Coordination Meeting on Human Trafficking Prevention and Racism Elimination” on May 8, 2020) was established in 2007 and the Human Trafficking Prevention Act was defined in 2009 to provide the concrete measures to promote the prevention, inspection and prosecution against human trafficking, and protection of victims:

- i. Prevention Perspective:
 - (i) The MOL periodically provides an array of informative campaigns, including conducting periodic educational training sessions and legal awareness campaigns, publishing the Handbook for Foreign workers in Taiwan and the Handbook for Employment of Foreign workers in

Taiwan, producing pre-employment sessions videos, entrusting radio stations to produce and broadcast radio programs in migrant workers’ languages, reminding migrant workers of their rights and interests through the multi-language Rights & Interests Website (in Chinese, English, Indonesian, Vietnamese, and Thai), and raising awareness of human trafficking prevention and control, at Migrant Workers Service Centers through various local governments, Migrant Workers Service Stations in Taiwan’s International Airports, service personnel for Hot Line 1955, employers, intermediary practitioners, and the general public.

- (ii) To improve employers’ understanding of laws and responsibilities for foreign workers, Article 48-1 of the Employment Service Act was amended and promulgated on October 7, 2015, specifying that the local employer of a foreign worker must complete a certain number of hours of employer training sessions before hiring a foreign worker to render home care or household assistance for

the first time. The session shall cover laws regarding employment of foreign workers, human trafficking prevention, foreigners' customs in their own country, labor relations and insurance, labor contracts and salaries, and treatment of termination of employment. The sessions have been held since July 1, 2016 to help employers get their family fully prepared for the prospective situations and related laws, improve labor relations, and reduce the number of foreign workers leaving due to poor adaptation. In addition, the MOL, in its effort of establishing a single-window service website, incorporated the "Employer's pre-employment sessions information website" into Information Site of Foreign Worker Rights for integrated management on June 20, 2018.

ii. Protection Perspective:

With the joint effort of foreign workers counseling service centers of local

governments and NGOs, mechanisms have been established to assist trafficking victims by providing protective placement and interpreters to accompany to inquire, and offering them with living subsidies, physical and psychological therapy, extension of resident status, subsidies for litigation expenses, subsidies to NGOs in relevant activities, financial aids to emergencies /disastrous incidents, assistance in changing employers or job cross work sectors, issuing short-term working permits, employment services and vocational trainings.

iii. Investigation and Prosecution Perspectives

Offering of consultations to migrant workers, acceptance of complaints from migrant workers, and assisting migrant workers in pursuing employers or intermediary agencies for payment of outstanding wages or fees can be done through existing

bilingual consulting & complaint channels such as Migrant Workers Service Centers at various local governments, Migrant Workers Service Stations in Taoyuan and Kaohsiung International Airports, and the Migrant Workers Consulting & Complaint Hot Line 1955. For migrant workers' complaints about suspicions of human trafficking, local governments should assist in transferring such cases to judicial and police agencies for further investigation. Employers and brokers exploiting foreign workers will be penalized according to the law.

iv. Others

In addition to the above mechanisms, the MOL continues to request local governments to take the following actions: increasing fines against illegal employers and brokers, encouraging public reports, evaluating brokers, promoting direct employment of foreign workers, increasing ways to employ foreign workers, and reducing fees collected by brokers.

(7) Providing Interpreters to help Foreign Workers during Inquires

- i. On August 6, 2010 the MOL promulgated guidelines for local government and other administrative and police agencies to follow during their interrogations and to arrange personnel from NGOs to accompany foreign workers during inquiries. The guideline indicates how to find interpreters from the counseling service centers and NGOs to accompany foreign workers to inquiries so the victims can be well informed of their legal rights and obligations.
- ii. To set a reasonable compensation for interpreters, the MOL amended and

promulgated Guidelines for the Implementation of Examinations of Foreign Workers in Company with NGOs by Local Governments on August 11, 2017, covering interpretation of administrative or criminal cases where foreign workers are involved in Taiwan. The interpretation fee per case was also adjusted from NT\$500 to NT\$600 for the first two hours and from NT\$155 to NT\$300 after the third hour (inclusive); the interpretation fee by night shall be twice the fee by day. To ensure the reasonableness of the interpretation fee, the length of time of interpretation shall be calculated beginning at the agreed time; travel allowances were also set to ensure the reasonableness of the interpretation fee, the length of time of interpretation shall be calculated beginning at the agreed time; travel allowances were also set. On May 14, 2019, the MOL amended and promulgated the above Guidelines, specifying that the appointment of companions and interpreters shall be subject to the consent and choice of foreign workers to safeguard foreign workers' welfare; in addition, the definition of hours of interpretation was amended to avoid misunderstanding. The amendment also specified that personnel of private employment service agencies shall not be interpreters.

- (8) Strengthening the pandemic prevention and protection of migrant workers' work rights and interests during the pandemic of the severe, special, and infectious pneumonia (COVID-19)

In response to the severe COVID-19 pandemic in the international community, and realizing the aim of the policy of reducing the cross- border flow of people, as well as for mitigating problems derived from migrant workers' stranding in Taiwan due to flight cut-backs as a result of the pandemic, the Ministry of Labor

has adopted the following relevant measures:

- i. Migrant workers whose accumulated working years in Taiwan would reach the limit at any point from March 17, 2020 to March 17, 2021 may apply to the Ministry of Labor for an extension of their employment permit. Migrant workers whose accumulated working years in Taiwan otherwise would not reach the limit, yet their departure from Taiwan would be impossible after their current employment permit would expire at any point from March 17 to September 17, 2021, may apply through their employers with a valid retaining permit to the Ministry of Labor for a short-term employment permit.
- ii. To reduce the cross-border flow of migrant workers and to encourage employers to take in migrant workers already in Taiwan, an order has been issued to stipulate that, during the pandemic, an employer is not restricted to hire foreign workers as per original quota if its previous foreign worker's dismissal from that employer is not attributable to the employer.
- iii. To encourage employers, through negotiation with their migrant workers, to postpone or cancel their workers' leave back to the workers' country of origin, the Ministry of Labor has issued "Rules regulating the compensation of necessary transportation expenses associated with

postponed or cancelled leaves back to the workers' country of origin to foreign workers who are hired in accordance with Subparagraphs 8 to 11, Paragraph 1, Article 46 of the Employment Service Act" to compensate those migrant works for their loss of necessary transportation expenses associated with the postponed or cancelled leave back to the workers' country of origin in support of requirements of pandemic prevention.

- iv. As of November 23, 2020, migrant workers who got stranded in Taiwan due to the pandemic after failing to secure a renewal contract with the same employer or a new contract with a new employer upon the expiry of the current employment contract may register at a local public employment service agency, with prior approval from the Ministry of Labor, for employers with a valid retaining permit to take them in through application, which is to stabilize the labor-employment relationship.

2. Protection of Foreign Workers' Employment Rights

- (1) Foreign workers enjoy the same protections under the labor laws as the local citizens

- i. According to Article 7 of the “Universal Declaration of Human Rights” that “All are equal before the law and are entitled without any discrimination to equal protection of the law,” Taiwan will surely comply with international regulations. Under the principle of “National Treatment”, foreign workers are protected by the Taiwan labor-related laws while they are in Taiwan. If foreign workers are employed in the industries that are under the supervision of Labor Standards Law (LSL), they are be protected by LSL, which offers nondiscrimination and legitimate protection in minimum wages, working hours and working conditions. Although household maids and in-home caretakers are not

currently covered under the protection of LSL, the “Regulations on the Permission and Administration of the Employment of Foreign Workers” stipulate that the

Salary/Wage Affidavit shall be specifically listed in the salary and related expenses after entering Taiwan, signed by all four parties: employer, foreign worker, brokers of both Taiwan and the labor sending country, notarized by the labor sending countries prior to foreign workers' arrival in Taiwan. The said regulation also stipulates that the written employment contract shall be concluded and signed by the employer and the foreign worker. For further protection of the rights of foreign workers, employers are required by law to pay full salary directly to foreign workers.

- ii. If national and foreign caregivers are employed by businesses under the Labor Standards Act (such as social welfare institutions), their labor conditions shall be granted in accordance with the Labor Standards Act; when they are employed by individuals to provide care at home, or care for everyday living of family members or other home caring related tasks, their working environment, working style, working hours and rest periods are apparently different from those employed by businesses, making it difficult to apply the Labor Standards Act. Currently, the Labor Standards Act does not apply to family workers employed by individuals. Regarding measures for the protection of rights and interests related to family workers, they will be promoted in order in accordance with issues of insurance, personal safety protection, and long-term care systems.
- iii. To protect the rights and interests of family workers, the MOL has set up the Family Worker Protection Task Force and invites experts and scholars to discuss the protection of rights and interests of family workers on a regular basis. Related protective measures will be taken according to the domestic long-term care system and the conclusions of meetings held by the Family Worker Protection Task Force.

- iv. Considering the gradual increase in salaries of family-based foreign workers and the financial abilities of employers, the MOL held a meeting with Indonesia, Philippines, Thailand and Vietnam on August 28, 2015 to protect the rights and interests of family-based foreign workers. The meeting concluded with a new labor contract that has increased the salary of a family-based foreign worker from NT\$15,840 to NT\$17,000 for verification by the representative office since September 1, 2015. The labor contract has been implemented.
- v. To stabilize labor relations, save training costs, and retain outstanding foreign family caregivers, the MOL announced on November 11, 2015 that trained or self-educated foreign family caregivers having outstanding performance up to the standards of the authorities may work in Taiwan for 14 years.
- vi. To prevent employers from collecting unreasonable accommodation and utility fees in all sorts of names, an interpretation order was given to stipulate that the price of accommodation and utility provided by employers shall be collected in a fair and reasonable manner, and that foreign workers may complain to the MOL or local authorities in charge of labor about employers' violation.
- vii. According to Articles 54 and 57 of the Employment Service Act, employers shall not illegally withhold passports/residence certificates of foreign workers, or embezzle belongings of foreign workers. Foreign workers may complain to the MOL or local authorities in charge of labor about the said violations of employers or brokers. The MOL is currently amending Articles 54 and 57 of the Employment Service Act, which will stipulate that employers who have illegally withheld passports/residence certificates or other ID documents of foreign workers, will have their recruitment licenses, employment licenses or

renewal of employment licenses rejected or revoked.

- viii. Currently, foreign fishermen are divided into domestic employment and overseas employment. The permit and management of the employment of foreign fishermen domestically is regulated by the Employment Service Act and its subordinate laws, which are under the administration of the Ministry of Labor where labor laws such as the Labor Standards Act, Labor Insurance Act, and Occupational Safety and Health Act, and the existing protection system for migrant workers are applicable. The permit and management of the employment of foreign fishermen overseas is regulated by the Act for Distant Water Fisheries and its subordinate laws, which are under the administration of the Council of Agriculture, Executive Yuan.
- ix. On November 3, 2016, the MOL deleted the provision in Article 52 of the Employment Service Act that foreign workers shall leave the country for one day upon the expiration of three years of employment and to protect the rights and interests of foreigners working in Taiwan prescribed that foreign workers agreeing with original employers to renew the contract or agreeing with new employers to work upon the expiration of employment may apply for employment permits without leaving the country for one day.
- x. To protect the rights of foreign workers to take leaves to their home countries, the MOL established and promulgated the Directions of Foreigners Engaging in Jobs Specified in Items 8 to 10, Paragraph 1, Article 46 of the Employment Services Act Wishing to Take Leaves to Their Home Countries on April 18, 2017, specifying that foreign workers wishing to take leaves to their home countries may arrange the date of return with the consent of the employers. For

foreign workers wishing to take special leaves to their home countries, the Labor Standards Act, the Act of Gender Equality in Employment and the labor contract shall apply.

- xi. To protect the rights and interests of foreign family caregivers while taking care of the disabled, the Ministry of Labor and Ministry of Health and Welfare have been jointly promoting the "increasing employment of foreign family caregivers for respite care needed by families" as of December 1, 2018, under the subsidy of the MOL. Furthermore, as of December 1, 2020, requirements for respite care receivers have been relaxed where the disabled assessed with Grade 2 to Grade 8 disability are now qualified for respite care, instead of with Grades 7 or 8 disability as rigidly required for long-term care. Where foreign family caregivers fail to assist in caring families due to workers' leave or absence for cause, employers may apply for respite care for care manpower needed while protecting the rights and interests of foreign family caregivers.
- xii. To protect non-national dependent children of foreigners working in Taiwan, the MOL has offered the Ministry of Health and Welfare allowances for the placement of non-national dependent children of foreign workers since June 1, 2017. From October 1, 2019 to the end of December 2020, the MOL will offer the National Immigration Agency, Ministry of the Interior, allowances for the placement and repatriation of children of illegal foreign workers and foreign workers who are pregnant for more than 5 months.
- xiii. After an amendment to the Labor Union Act took effect on May 1, 2011, the restriction that only citizens of the Republic of China can be elected as a director or a supervisor of a labor union has been removed. Now, if they meet the

requirements of majority in accordance with the Civil Code, migrant workers not only can act as founders of a labor union but also can be elected as directors and supervisors of the labor union without being required to have citizenship of the Republic of China. Migrant workers' work and related rights of alliance hence are protected, while enjoying the protection of their three labor rights (namely right to unity, right to negotiation, and right to be protected under dispute) the same as

enjoyed by local laborers with R.O.C. nationality.

- (2) Ensuring the employers pay the salary according to labor contract
 - i. Under the newly amended regulations by the MOL on November 7, 2001 an employer is not allowed to deduct brokerage and other fees from the workers' salary. The statement that "30% salary deduction as monthly deposits with the consent of the worker" has also been deleted.
 - ii. The MOL regulated the new rules for the works' salary on November 9, 2001. When employees receive the salary from employers, it should be always accompanied by a salary slip which is translated to employer's home country language. If employers illegally withhold employee's belongings, employees can hand in salary slip as evidence in the court. Employers won't be permitted for further application if they fail to follow the rules. The authority may decide to stop the on-going application procedure or revoke the already approved ones.
 - iii. The MOL has assigned more than 274 inspectors since 2000 to visit foreign workers to understand their employment situations and to protect foreign

workers' rights. Furthermore, for the purpose of strengthening local government's capability in this regard, MOL has also subsidized additional 62 inspectors nationwide (currently a total of 336) beginning October 1, 2018. The inspectors have been assisting in the explanation of pertinent legal regulations and management in their regular visits to the employers. The purpose is to ensure the employers have complied with the instructions listed on the "Living Care Service Plan" for foreign workers and carried out the employment contract faithfully to avoid illegal happenings and ensure the rights of foreign workers.

- iv. The Regulation on the Permission and Administration of the Employment of Foreign Workers was amended and enacted on December 24, 2008 to protect the rights of foreign workers. It stipulates that the

terms and conditions of the employment contract shall be consistent with the Salary/Wage Affidavit notarized by the competent authorities of labor from the source country. If any discrepancies arise, the Salary/Wage Affidavit version shall prevail. Changes to contents contained in the Salary/Wage affidavits that would disadvantage the interest of the foreign worker shall be made by the employer. The salary slips shall be kept for 5 years for future reference.

- (3) Preventing occupational accidents

- i. In accordance with provisions of the Occupational Safety and Health Act, employers shall conduct regular health checks and occupational safety and health education and training for employed workers, as well as posting hazard warning signs around the workplace in languages known to migrant workers to remind migrant workers of injury minimization.

- ii. The MOL has taken occupational accidents of foreign workers into consideration in its statistical analyses. The variation of the data may serve as a reference to the preventive measures for occupational accidents, so that proper measures can be put in place to prevent accidents from happening.
- iii. The MOL made further explanation on December 23, 2003 that if a foreign worker is incurred with occupational accidents and withdraws from the insurance program upon the termination of his employment contract during the period of medical treatment for the occupational injury or illness, he may still participate in the general accident labor insurance program until the completion of the medical treatment which must be proved by a doctor and issued by the MOL according to Article 30 of the Occupational Accident Labor Protection Law, In order to protect further foreign workers' right.
- iv. The MOL put in place 1955 Laborer Consultation & Appeal Hotline

beginning July-1,2009 to help foreign workers overcome the language barrier, the problems encountered in compensation processes in an unfamiliar environment and any other possible needs in occupational accidents. Furthermore, the MOL has taken to subsidizing local governments in installing foreign laborers consultation service center to facilitate investigation and case follow-up by local governments through electronic dispatch. In addition, the MOL coordinates with governments at all levels, representative offices from all the labor-sending countries in Taiwan, caring groups for foreign workers and other resources to help with the confirmation of liabilities, application for medical treatment and related compensation, mediation of disputes, assistance in legal appeals, caring and counselling of victims in occupational accidents, living assistance, family

contact for foreign workers and other necessary assistance in a comprehensive reporting system. The MOL hopes the victims of occupational accidents can receive the most efficient and comprehensive assistance through this comprehensive protection system.

- v. Since November 28, 2018, the MOL has stipulated that employer's subsequent application shall not be permitted, and all previously permitted applications, if any, shall also be revoked in introducing foreign workers if there was a violation of the regulations prescribed in "Occupational Safety and Health Act" which results in the death or partial or all loss of ability to work of a foreign worker , and subsequently failed to compensate for the loss or for the employment of foreign workers warranted under the law.

(4) Cross-country change of employer or line of work

- i. The procedure for foreign workers transferring to a new employer was deregulated and amended on February 27, 2008 to protect foreign workers' rights, to decrease the failure rate of transferring to a new employer, to

shorten the application process time and procedure of transferring to a new employer and to comply with the establishment of the "Employment Network Registration System & Recruitment Database." The amendment allows that as long as consensus is reached among the original employer, foreign labor, and new employer the application for transfer to a new employer will be accepted by the MOL. The new employer may directly submit the application for transfer of employer to the MOL without going through a public employment service institution if the worker, old employer, and new employer all agree or if a worker

whose employment contract has been abrogated and the new employer agrees. This new amendment also relaxes the number of times a foreign worker may transfer, extend the transferring period to 60 days during which a transfer must be completed and allowing foreign home-based caretakers to transfer to a new employer or a different type of work of their free will.

- ii. The MOL revised the rules for foreign workers' transfer of employers on June 29, 2011 to further reinforce the rules for the continuous employment of foreign workers agreed upon with the new employer and the foreign worker. The revision regulates the three-parties cooperation between the foreign workers and the employers (new and old) in continuing the employment agreement. The revision also specifically states that all parties concerned shall sign the documentation for continuous employment to protect the employment rights for the foreign workers after the transfer.
- iii. To protect the foreign workers who are not able to complete the transfer within a 60-day period the MOL revised the regulation on September 1, 2009. Foreign workers who due to specific reasons cannot complete the transfer in time and deportation will harm their interests should file an application for an extension of period of transfer to another employer. After the application is approved the foreign worker will be able to extend

the period of transfer to another employer and the extension period is 60 days and is limited to a one-time only extension. The number of transfers is not limited to those who are sexually abused by the employer or the colleague.

- iv. When foreign workers are harassed by employers or their employees, trustees, dependents or caretakers or verified to be victims of human trafficking, they

may be transferred to other employers or types of work without limit.

- v. According to Article 52 of the Employment Service Act amended and promulgated on November 3, 2016, the MOL established a new system for changes in employers or work situations upon the expiration of employment. Upon the expiration of employment of foreign workers who agree with employers not to renew the contract and are willing to continuously work in Taiwan, the original employers shall apply to the MOL for transfer of the foreign workers within 2~4 months; then, the MOL will register necessary information on the foreign workers in the information system based on their willingness to connect with new employers.
- vi. To protect employment rights of foreign workers during pregnancy, the MOL issued a letter to foreign workers, employers, and manpower agencies on October 22, 2019, stating that pregnant foreign workers may apply for the postponement of transfer of employer or work during their pregnancy with the certificate of diagnosis, and should apply for resumption within a certain period of time after birth.
- vii. To secure migrant workers' rights and interests in changing employers, implementations from July 7, 2020 onwards included the revision of the calculation method of the starting date of the job transition period, as well as the provisions for migrant workers to be assisted by the public employment service agency in handling the changing employer procedure

upon the expiry of their labor contracts, and for employers to notify their local government for inspections of the worker.

3. Protection of Foreign Workers' Living Rights

- (1) More efforts on day-to-day counseling
 - i. The MOL has set up a network of counseling services throughout the country to help foreign workers adapt to the lifestyle in Taiwan. These services are provided in conjunction with local representative offices of labor sending countries, government institutions, local labor service centers, NGOs, manpower agencies and employers.
 - ii. Article 40 and Article 41 of “the Regulation on Permission and Administration of the Employment of Foreign Workers” required that employers shall assign supervisors and bilingual staff while hiring foreign labor to ensure the employers provide appropriate guidance to foreign workers, keep an eye on foreign workers’ living conditions and reinforce the communication capacity between the two parties of employer and foreign worker. The number of supervisors and bilingual staff needed shall depend on the number of foreign workers the employer hired. Those who do not meet the staffing requirement shall be asked to make improvement within a limited period of time by the local competent authorities in order to enhance the employers’ employment capacity.
 - iii. The MOL requires that all employers shall manage their foreign workers in strict accordance with the “Living Care Service Plan for Foreigners”. The Criteria for “Living Care Service Plan for Foreigners” revised on August 2, 2011 demands employers to respect the food concerns based on foreigners' religious beliefs. Employers should take "privacy" as the first priority in setting surveillance camera at foreigners' living quarters for safety reasons which lead to privacy/safety concerns. Employers

should also provide “1955” hotline information to foreign employees.

- (2) Strengthening the risk management of accommodation locations
 - i. On January 1, 2021, an amendment to the "Discretionary Bases for Foreign Caregivers Plans" was promulgated and implemented, which now requires employers to declare whether the accommodation location for migrant workers is separated from the workplace location, is located in a dangerous workplace, has been declared as passing a building public safety inspection and has fire safety equipment maintenance, etc. Moreover, through employers' statements and information interfaces, local governments are to confirm high-risk locations at their earliest convenience and prioritize inspections to ensure the safety of migrant workers' accommodation.
 - ii. To insure the construction and fire safety situations of migrant workers' accommodation locations, the Ministry of Labor and the Ministry of the Interior jointly completed a cross-ministry information platform interface for migrant workers' accommodation locations on June 30, 2020, urging employers to arrange migrant workers' accommodation in buildings conforming to building and fire regulations.
- (3) Improve foreign fishermen's life

To offer foreign fisherman employed to work in Taiwan sounder care and impose obligations on employers to manage foreign fishermen for the purpose of improving their living environment, the MOL amended and promulgated the

Regulation on Permission and Administration of the Employment of Foreign Workers on July 6, 2017, specifying that foreign fisherman shall be included in the Standards for the Plan of Foreigners' Life Care to protect the rights and interests of foreign fishermen. The Regulation takes effect from January 1, 2018.

- (4) Prevent unjustified tax pre-deduction
 - i. The itemized income tax rate and standard deductions was amended and announced by the Ministry of Finance on January 1, 2009 to relieve the income tax burden on low-income foreign workers. The new amendment stipulates that foreign workers staying in the R.O.C for less than 183 days in a tax year and earning less than 1.5 times monthly minimum wage per month shall pay 6% tax on income earned, effective on January 1, 2009.
 - ii. The MOL has required that all employers obey the tax regulations closely with regard to the issue of tax pre-deduction to prevent employers from making unjustified tax pre-deductions. Local manpower agencies are also requested by the MOL at the regularly held seminars to inform employers about the tax payment regulations.
 - iii. Moreover, in order to heighten awareness of foreign workers on their income tax rights and obligations, MOL included the precautions of foreign workers' income tax declaration in the "Handbook for Foreign Workers in Taiwan" in 2018, to avoid labor disputes or tax refund problems by Taiwan tax authorities.
 - iv. The MOL has published the "What foreign works in Taiwan need to know" for foreign workers that outlines important information and tips on filing tax returns to prevent labor dispute concerning taxation issues and make the process of

filing a tax refund more effective. Investigation efforts have also been made by the MOL to find the employers who illegally withhold income tax from foreign workers. Employers are required to issue income and tax deduction receipts in both Mandarin Chinese and the native language of the hired foreign workers for foreign workers for their filing tax refund reference.

(5) Join the Labor Insurance & National Health Insurance Systems

i. Labor Insurance:

Foreign workers enjoy the same rights as domestic labors. They will be protected by pertinent laws in this country. Employers of foreign workers that are required to join the insurance program in accordance with the “Labor Insurance Guidelines” will have to join the labor insurance program with the Labor Insurance Bureau by presenting foreign worker’s employment permit, alien residence certificate or a copy of the foreign worker’s passport. Foreign workers who are not obligated to enroll in the insurance program may still enroll in the labor insurance program and be entitled to compensation in case of sickness, injury, medical, disablement, death and relevant insurance.

ii. National Health Insurance:

According to Article 10 of the “National Health Insurance Law,” foreign workers who are employed in Taiwan and obtained an alien residence certificate in Taiwan will have to join the National Health Insurance program. Based on Article 2 of the said regulations, foreign workers will be compensated with insurance payment when incurred with sickness, injury or giving birth during the insured period.

(6) Organize recreational activities

- i. The MOL offers a series of recreational activities such as radio programs in several languages and cultural events during holidays to help foreign workers cope with job pressure, homesickness and adapt themselves to the lifestyle in Taiwan. It also subsidizes local governments every year to carry out leisure, folklore, recreational activities, etc. for migrant workers during the New Year's season or from time to time. Meanwhile, employers have also arranged leisure activities in a timely manner for migrant workers in Taiwan to relieve their physical and mental pressures.
- ii. On April 2, 2015, the MOL amended and promulgated the "Subsidy Guidelines for Implementing Foreign Workers Management Measures",

which expanded the scope of creative, experimental, or international activities or programs relating to the management of foreign workers, as the basis for domestic non-government organizations to hold courses and activities supportive of foreign workers.

IV. The Conclusion

Improvement of human rights is related to every aspect of our country's economic development and social stability as an integral part of our overall national policy. The importance of safeguarding the rights of foreign workers couldn't be emphasized more. Efforts to improve human rights around the world are now carried out in line with the current enlightened trends of globalization, liberalization and equalization. Taiwan is making every effort to ensure that its

human rights practice conforms to international standards as a responsible member of the global community. Many aspects of the Universal Declaration of Human Rights have in fact already been embodied in our constitution. These include key statements proclaimed in Articles 1, 7, 12, 13,

14, 17, 18, 19, 22, 23 and 24: all human beings are born free; all are equal before the law and are entitled without any discrimination to equal protection of the law; everyone has the right to seek and to enjoy in other countries asylum from persecution; no one shall be arbitrarily deprived of his property; everyone has the right to freedom of thought, conscience and religion; everyone has the right to expect and obtain favorable conditions of work; everyone has the right to equal pay for equal work; and everyone has the right to rest and leisure. This Report is prepared with a view to reinforce the fundamental stance of our constitution. We hope that such a stance will be honored and followed closely as we continue to demonstrate our sincerity and determination to safeguard the legitimate rights of all foreign workers in Taiwan.⁵⁸

APPENDIX B

REPUBLIC OF KOREA 2017 HUMAN RIGHTS REPORT EXECUTIVE SUMMARY

The Republic of Korea (South Korea) is a constitutional democracy governed by a president and a unicameral legislature. Observers considered the presidential election in May and legislative elections in 2016 free and fair. Moon Jae-in was elected president in an early election following the impeachment of former

⁵⁸ "Report on Protection of the Rights for Foreign Workers in Taiwan."

president Park Geun-hye.

Civilian authorities maintained effective control over security forces.

The most significant human rights issues included: government interpretation and application of the National Security Law, libel laws, and other laws that limited freedom of expression and restricted internet access; corruption; domestic violence; and the military's prosecution of male soldiers for homosexual activities, although the new government discontinued such action.

The government took steps to prosecute officials who committed abuses. A degree of impunity for corruption charges was a concern.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

Efforts by the Ministry of National Defense (MND) to address institutional deficiencies that contributed to a high rate of killings and suicides among military recruits led to improvements, and the ministry reported an overall decrease in the number of deaths in the past three years. Suicides were generally attributed to bullying, hazing, or inability to adjust to military life.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices and there were no allegations of torture; however, there were credible reports that some government officials abused their authority.

As in 2016, MND reported no instances of bullying in the military, despite a general belief that hazing played a role in suicides in the military (see section 1.a.). Credible evidence indicated mistreatment of soldiers persisted. The Military Human Rights Center stated that statistics were difficult to obtain and bullying was nuanced and not easily punishable as a criminal act.

In August media reported that a four-star general and his wife pressured junior soldiers in their personal residence to do demeaning labor while subjecting them to verbal and physical abuse over extended work hours. The general lost his command position and was arrested in September.

Military human rights monitors in the MND's Human Rights Evaluation System received approximately 530 proposals to improve human rights from 2014 to July. To address these, the ministry implemented the Basic Law for the Status and Service of Military Personnel in 2016. The law aims to ensure the basic rights of personnel and provide remedies for violations of human rights. With support from the National Human Rights Commission of Korea, the ministry

trained approximately 600 military human rights instructors per year. In January it established an advisory committee on military human rights consisting of civilian human rights experts.

Prison and Detention Center Conditions

There were no significant reports regarding prison and detention center conditions that raised human rights concerns.

An Airlines Operators Committee, consisting of 60 member airlines, funded and staffed a “departure waiting area” inside Incheon International Airport for travelers denied entry to the country, including migrants and asylum seekers. The Ministry of Justice is the managing government authority responsible for the area.

Persons in the area may contact a lawyer and appeal their denial of entry. According to the Justice Ministry, on average 132 persons used the area daily between January and June, with 49 percent departing on the same day and 97 percent departing within four days. The departure waiting area had the capacity to accommodate approximately 60 persons overnight.

The ministry asserted the area was equipped with separately furnished male and female waiting rooms, bedrooms and restrooms with shower stalls along with televisions, free Wi-Fi, sofas, public telephones, water purifiers, and blankets. In contrast, international organizations and nongovernmental organizations

(NGOs) described the living conditions in the waiting room as substandard--lacking privacy, bedding, and medical care--especially for those confined to the room for several months.

Occupants depended on their respective airlines for food. Some received fast-food meals three times a day, while others received nothing and relied on other travelers or their asylum lawyers for sustenance.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions. Deaths in prison were generally consistent with death rates/causes nationally.

Independent Monitoring: There were no problems reported with access to prison facilities. The country's independent National Human Rights Commission has access to correctional facilities to investigate reported cases of human rights violations.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and the government generally observed these requirements.

The National Security Law (NSL) grants authorities the power to detain, arrest, and imprison persons believed to have committed acts intended to endanger the

“security of the state.” Domestic and international NGOs continued to call for reform or repeal of the law, contending its provisions do not clearly define prohibited activity and that it was used to intimidate and imprison people exercising their right to freedom of expression.

Role of the Police and Security Apparatus

The Korean National Police Agency (KNPA), under the supervision of the Ministry of the Interior (formerly the Ministry of Government Administration and Home Affairs), is responsible for internal security. The Korean Immigration Service, under the supervision of the Ministry of Justice, is responsible for

migration and border enforcement. Civilian authorities maintained effective control over police, and the government had effective mechanisms to investigate and punish abuse and corruption.

The National Intelligence Service (NIS) has the authority to investigate crimes or criminal activity related to national security and subversion. Civil society organizations continued to claim that extensive NIS powers and secrecy combined with little oversight enabled the NIS unreasonably and expansively to define and investigate activities it deemed a threat to national security.

The KNPA and Justice Ministry did not report any acts of impunity involving security forces during the year. Some NGOs and workers’ rights groups contended the deployment of plainclothes police to manage protests or the removal of

uniformed officers' name tags during protests created the possibility of impunity, particularly if forceful suppression techniques--such as water cannons--were used.

Arrest Procedures and Treatment of Detainees

The law requires warrants in cases of arrest, detention, seizure, or search, unless authorities apprehend a person while committing a criminal act, if a judge is not available, or if authorities believe a suspect may destroy evidence or escape capture if not arrested quickly. In such cases, a public prosecutor or police officer must prepare an affidavit of emergency arrest immediately upon apprehension of the suspect. Authorities may not interrogate for more than six hours a person who voluntarily submits to questioning at a police station. Authorities must either indict or release an arrested suspect within 20 days. The law allows 10 additional days of detention in exceptional circumstances.

There is a bail system. Human rights lawyers stated authorities generally did not grant bail for detainees who were charged with committing serious offenses, may attempt to flee or harm another individual, or had no fixed address.

The law provides for the right to representation by an attorney, including during police interrogation. There were no reports of denial of access to counsel. There are no restrictions on access to a lawyer, but authorities can limit a lawyer's participation in an interrogation if the lawyer obstructs the interrogation or discloses information that impedes an investigation. During the trial stage, and

under certain circumstances during the pretrial stage, an indigent detainee may request that the government provide a lawyer.

Access to family members during detention varied according to the severity of the crime.

Arbitrary Arrest: The Ministry of Justice reported that from January through September, seven persons were detained for suspicion of violation of the National Security Law. All seven were indicted; one was convicted, and six remain on trial.

NGOs highlighted the case of Lee Jin-young, who was arrested in January for violating the National Security Act by collecting socialist movement-related books in electronic form and distributing them via the internet. Among these books were novels written in North Korea and books related to Juche ideology. He was acquitted, but prosecutors lodged an appeal saying they “cannot accept the acquittal of Lee who publicly advocated socialist revolution.”

Detainee’s Ability to Challenge Lawfulness of Detention before a Court: Criminal suspects have the right to petition the court for habeas corpus.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. By law defendants in criminal trials are presumed innocent and enjoy protection against self-incrimination and have the right to be informed promptly and in detail of charges, with free interpretation as necessary; to communicate with an attorney (at public expense if necessary); to have a fair and speedy trial; to attend the trial; and to appeal. Defendants received adequate time and facilities to prepare a defense. They are also protected against retroactive laws and double jeopardy, although prosecutors can appeal not-guilty verdicts. Initial trials must begin within six months of arrest.

Trials are open to the public, but judges may restrict attendance if they believe spectators might disrupt the proceedings. There is a jury system, but jury verdicts are not legally binding. In serious cases such as murder and rape, the judge may consent to a legally binding jury verdict, provided it is reached in consultation with the judge. The defendant must request a jury trial beforehand.

Judges have considerable scope to examine witnesses for both the prosecution and defense. Defendants may not be compelled to testify or confess guilt.

Political Prisoners and Detainees

The Ministry of Justice stated there were no persons incarcerated because of their political beliefs. Some NGOs, however, argued that individuals arrested for

violations of the NSL, for conscientious objection to military service, or for strike activities qualified as political prisoners.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, and there were no problems enforcing domestic court orders. Citizens had court access to bring lawsuits seeking damages for, or cessation of, a human rights violation.

Individuals and organizations may appeal adverse decisions to domestic human rights bodies, and then to the UN Human Rights Committee. Administrative and judicial remedies are available for alleged wrongs.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such interference in the private domain, and the government generally respected these prohibitions. The law establishes conditions under which the government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national security cases. The Security Surveillance Act requires some persons sentenced to prison for breaching the NSL to report their whereabouts, travel plans, family relations, occupation, and financial status to a local police office within seven days of leaving prison and every third month thereafter.

The NSL forbids citizens from listening to DPRK radio programs in their homes or

reading books published in the DPRK if the government determines such an action endangers national security or the basic order of democracy. Enforcement of these prohibitions was rare, however, and viewing DPRK satellite telecasts in private homes is legal.

Lawmakers and NGOs claimed that the 2016 Counterterrorism Act significantly expands NIS power to wiretap telephones and collect personal information;

however, there have been no specific claims of abuse of the law or cases filed for violations of it since enactment.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press. Nonetheless, the government's interpretation of the following limited freedom of speech and expression and restricted access to the internet: the NSL; Article 21, Paragraph 4 of the constitution; the Act on Antiterrorism for the Protection of Citizens and Public Security; the Election Law; the Criminal Act; the Framework Act on Telecommunications (Framework Act); and the Act on Promotion of Information and Communication Network Utilization and Information Protection (Network Act).

Freedom of Expression: Although the law provides for freedom of speech, under laws

such as the NSL the government may limit the expression of ideas that praise or incite the activities of “anti-state” individuals or groups. During the year, prosecutions under the NSL for speech that allegedly supported or praised the DPRK government continued. Individuals whom authorities deem to have criticized the country’s political leaders may be punished under laws that criminalize defamation, whether fact-based or false, if the comments are deemed not to be in the public interest.

Human Rights Watch claimed the government undermined the free exchange of opinions that are fundamental to democracy. Amnesty International’s 2016/17 report stated the government restricted freedom of expression by using the NSL to intimidate and imprison individuals. (See also see the case of Lee in 1.d., “Arrest Procedures and Treatment of Detainees.”)

Under the election law, the government can limit the expression of ideas that the National Election Commission deems to be false.

Press and Media Freedom: Independent media were active and expressed a wide variety of views, but strict defamation laws limited freedom of the press. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the NGO Reporters Without Borders voiced concern that defamation suits, filed for statements that were true and in the public interest, penalized individuals who criticized the government.

In September more than 3,000 journalists from the public broadcasters Korean Broadcasting System and Munhwa Broadcasting Corporation went out on strike to protest perceived assaults on editorial independence and management interference in reporting. The strike, which has drawn the support of the Journalists' Association of Korea, continued as of year's end.

The National Union of Media Workers in July 2016 denounced an array of tactics used by the government to influence news coverage, including nominating individuals close to the government to the boards of influential publicly owned media corporations and launching disciplinary or retaliatory actions against individual journalists as a warning to others.

Censorship or Content Restrictions: The Ministry of Gender Equality and Family monitors song lyrics and may ban content it considers offensive. The Korea Communications Standards Commission (KCSC) maintains ethical standards in broadcasting and internet communications.

In May, President Moon ordered the withdrawal of state-published history textbooks created under the previous administration.

Libel/Slander Laws: The government and individual public figures used the law, which broadly defines and criminalizes defamation, to restrict public discussion and harass, intimidate, or censor private and media expression. The law allows punishment of up to three years in prison for disclosing factual information and up to seven years for statements considered false. The law punishes defamation

of deceased persons as well; the maximum punishment is two year's imprisonment. A member of the People's Party, Lee Yoo-mi, was indicted in July on charges of fabricating evidence during the presidential election to support an allegation that Moon Jae-in had used his political influence to help his son secure a job. In December, Lee was sentenced to one year in prison on charges of violating the Public Official Election Act.

National Security: The NSL criminalizes actions interpreted to be in support of North Korea or otherwise against the state. The government used this law to arrest and imprison civilians, deport foreigners, and disband political parties. The Supreme Court ruled the NSL constitutional in 2015.

Internet Freedom

There were some government restrictions on internet access, and the government monitored email and internet chat rooms with wide authority under the law.

Internet access was available and used widely.

The KCSC determines whether posts made on social networking sites, such as Twitter and Facebook, or in chat rooms contain unlawful content, defined as harmful or illegal speech. If the government finds prohibited materials, it has the authority to warn the user. If the prohibited materials are not removed, the user's account may be blocked. In addition, a taskforce in the Seoul Central District Prosecutor's Office monitored the internet for false information and removed it when discovered.

The government blocked violent, sexually explicit, gambling-oriented, and other websites found to violate law and order, including, but not limited to, the illegal trade of internal organs, food, or medical supplies; violation of intellectual property rights; and the encouragement or planning of suicide. The government continued to block DPRK websites and direct access to the DPRK's YouTube channel and Twitter account. Although viewing websites praising the DPRK regime is lawful, disseminating information about those websites, including posting links to the sites, is unlawful under the NSL.

Although the requirement that persons use their real names when making online postings to large websites was ruled unconstitutional in 2012, the election campaign law requires real names for internet postings about forthcoming elections (see section 3).

Freedom House assessed the country's internet and press as "partly free."

According to the International Telecommunication Union, approximately 93 percent of the population used the internet in 2016.

Academic Freedom and Cultural Events

Media reported that the NIS was found to have compiled a blacklist of singers and actors who expressed criticism of the government. The public prosecution widened a probe into past involvement by NIS officials and former president

Park's closest aides in a political smear campaign and efforts to gag dissident cultural figures from February 2008 to March 2017.

In early 2017, during its investigation of the influence-peddling scandals involving former president Park Geun-hye and her close confidante Choi Soon-sil, the independent counsel found that close aides to Park had been involved in compiling a blacklist of Park's critics. In February the independent counsel indicted the former chief of staff to Park and the senior secretary for political affairs to the president on charges of bribery and abuse of official authority by creating a blacklist of approximately 10,000 artists, authors, filmmakers, singers, and actors. Media reported that some officials of the Ministry of Culture, Sports, and Tourism who did not support the blacklist were forced to resign. In October the judges sentenced the former chief of staff and former culture minister to three years and two years in prison, respectively. Both have filed appeals and are undergoing retrials. In addition, the former senior secretary for political affairs was sentenced to one year in jail with a two-year stay of execution for committing perjury at National Assembly hearings on the blacklist.

b. Freedoms of Peaceful Assembly and Association Freedom of Peaceful Assembly

The law provides for freedom of assembly, and the government generally respected this right. The Assembly and Demonstrations Act prohibits or places limitations on assemblies considered likely to undermine public order and requires notification of police in advance of demonstrations of all types, including political rallies. Police must notify organizers if they consider an event impermissible under this

law. Police banned some protests by groups that had not properly registered or that were responsible for violent protests in the past. Police also banned 37 assemblies in the first half of the year because two or more assembly applications were submitted for the same place. Some NGOs suggested companies work through proemployer “yellow” unions to submit assembly applications in advance and thereby prevent other groups from protesting near the company building. The KNPA reported 47 of 38,624 assembly applications received through July were denied or conditionally limited. Some NGOs contended that Article 314 of the Criminal Act, regarding obstruction of business, restricts the right to peaceful assembly.

Local and international observers questioned the tactics and technology used by the KNPA to manage large-scale protests. For example, much of the violence at a November 2015 “People’s Rally” (see section 7.a.) surrounded a barricade of hundreds of buses parked bumper to bumper completely blocking off access to streets. Protesters sought to break through or knock over the bus barricade, and physical clashes between the KNPA and the protesters ensued.

In September, two police officers who were operating a water cannon at the November 2015 rally and caused fatal injuries to Baek Nam-gi submitted a letter to the court apologizing to Baek’s family and promising to accept their demands.

Previously, the commissioner general of the KNPA issued an official apology, which Baek’s family and many others criticized as an effort to avoid “legal and social consequences,” while reiterating the need for an investigation. The two police

chiefs who were in charge when the incident took place, were also criticized for not taking responsibility for the events. Baek, an elderly protester, was in a coma for many months before dying in September 2016. In October the public prosecutor indicted the chief of the Seoul Metropolitan Police Agency and three police officers on charges of excessive suppression leading to Baek's death. Their trials were underway at year's end. KNPA requests for a warrant to perform an autopsy to determine the exact cause of death were turned down because of family opposition.

The KNPA announced in May it was "considering establishing a rule of not using police bus barricades or water cannons at the scene of demonstrations apart from exceptional cases in order to maximally guarantee freedoms of assembly and demonstration."

The KNPA established a special committee in August to investigate police violations of human rights. The committee consists of nine members including six representatives from human rights organizations. It investigated the death of Baek Nam-gi and others cases of alleged human rights violations since 2009.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right.

c. Freedom of Religion

See the Department of State's International Religious Freedom Report at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel (except to North Korea), emigration, and repatriation; the government generally respected these rights. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: According to the Office of the High Commissioner for Human Rights (OHCHR) in Seoul, approximately 70 percent of all defectors from North Korea were women, and many were victims of sexual violence and sex trafficking before arriving in South Korea. Recent defectors interviewed by the OHCHR said they expected these crimes as an inevitable part of the defection experience. (See also see the State Department's 2017 Human Rights Report for the Democratic People's Republic of Korea.)

Foreign Travel: Citizens traveling to North Korea must obtain permission from the Ministry of Unification before departure. The travelers must demonstrate their trip has no political purpose and is not intended to praise North Korea or criticize the government. Visiting North Korea without government approval is

punishable by up to 10 years in prison under the NSL.

Protection of Refugees

Refoulement: The law bans forced returns, and UNHCR had no reported cases as of December.

Access to Asylum: The law provides for granting asylum or refugee status.

The government considers refugees from North Korea under a separate legal framework and does not include refugees from North Korea in refugee or asylum statistics. The government continued its longstanding policy of accepting refugees or defectors from North Korea, who by law are entitled to South Korean citizenship.

The government operated refugee application counters at airports and harbors to allow asylum seekers to file applications for refugee status upon entering the country. These immigration offices review applications and determine if a case is eligible to be forwarded for refugee status review. The law protects asylum seekers' right to an attorney. Asylum seekers can ask for interpretation and legal aid services from the government and receive a work permit six months after application submission.

Requests for asylum continued to increase; 6,449 persons filed for asylum as of

September, an increase from 6,041 applications as of October 2016.

Since 1994 the country granted refugee status to approximately 3 percent of applicants.

The Ministry of Justice contended many applicants were unable to provide necessary documentation and thus did not qualify for refugee status.

NGOs pointed to understaffing as a major obstacle to enabling the refugee/asylum system to handle the sharp increases in applications. As of November, there were 24 refugee officers at the 10 immigration offices across the country.

Safe Country of Origin/Transit: The law provides grounds on which an asylum seeker at a port of entry may be denied referral for full asylum procedures. These include arrival “from a safe country of origin or a safe third country, in which little possibility of persecution exists.”

Access to Basic Services: Cultural and social differences posed adjustment difficulties, and many migrants from North Korea and asylum seekers from other countries alleged societal discrimination and were not always guaranteed access to basic services. These cases were often underreported; the National Human Rights Commission reported one discrimination case against an asylum seeker and no formal discrimination cases related to North Korean defectors through September.

Durable Solutions: From 2015 to 2017, the Ministry of Justice permanently resettled approximately 30 Karen refugees from Burma in the country per year, as part

of a pilot program. The program was the country's first to resettle foreign refugees. It provided Korean language classes, social and cultural adjustment education, work-study programs, and counseling services at an immigration reception center near Incheon Airport. The government is considering the future of the program.

Temporary Protection: Government guidelines offer both temporary refugee status in the case of a mass influx of asylum seekers and an alternate form of protection-- a renewable, short-term permit under "humanitarian refugee status"--to those for whom the category of refugee does not apply but for whom there are reasonable grounds to believe their life or personal freedom may be egregiously violated by torture or other problematic treatment or punishment. Of 18,854 refugee status

applicants since 1994, 955 individuals received humanitarian refugee status. At year's end, approximately 4,750 applications were under review. Regulations require a refugee status determination within six months of application, but the Justice Ministry's Refugee Division said staffing shortfalls following a nearly 300 percent increase in applications since 2013 contributed to an average of 16 months to process an application. The government maintains an immigration reception center where asylum seekers can stay for up to six months while their applications or appeals are processed.

In recognition of the humanitarian crisis in Syria, the government granted Syrians humanitarian refugee status without having to go through the usual refugee

determination process. Of the humanitarian status holders in the country, the majority were Syrians. Others included Palestinians, Egyptians, Chinese, and Burmese.

Stateless Persons

The Ministry of Justice reported 171 recognized stateless persons as of September.

Many were individuals who retained their foreign citizenship after naturalization. As the law did not permit dual citizenship, these individuals lose Korean citizenship and are temporarily stateless in the interim between abandoning their previous nationality and regaining their Korean citizenship. Others enter the country using travel documents for stateless persons, while some naturalized citizens become stateless after losing their Korean citizenship on charges of fraudulent marriages or forged documents.

Children born to North Korean defectors in China were often undocumented and stateless, neither recognized as Chinese citizens nor DPRK defectors. While they can eventually obtain citizenship and may have access to education in defector- oriented schools, the children are not eligible to receive the financial benefits that accompany official defector status. As a result, many defectors leave their stateless children behind in China, where they are particularly vulnerable to abuse and exploitation.

Parents who are undocumented foreign workers often do not register their children with either local authorities or home country embassies for fear of deportation.

One local NGO observer estimated there could be 2,000-3,000 such children in the country. Undocumented and/or stateless children had access to an education.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

An NIS special committee launched in June by the new Moon Jae-in government is conducting extensive probes into alleged political meddling, abuse of power, and human rights violations by the NIS.

Elections and Political Participation

Recent Elections: Observers considered the presidential election in May and legislative elections in 2016 to have been free and fair. The presidential election was held before the scheduled December date following the impeachment of former president Park Geun-hye. Moon Jae-in of the Democratic Party won a plurality victory with 41.1 percent of the vote.

In December the Seoul Central District Court fined Ahn Jin-gul, the deputy secretary general of the election advocacy group People's Solidarity for Participatory Democracy three million won (\$2,585) for various violations of election law prior to the 2016 legislative elections. The Court fined 21 other civil society

activists amounts ranging from 500,000 to three million won (\$431-\$2,585). Specific charges included conducting a survey without prior National Election Commission authorization and targeting candidates by placing them on an online “10 worst candidates” list. The court decision was on appeal at year’s end.

During the presidential election campaign, the Daejeon City Election Commission prevented civil society groups from displaying banners using the word “candlelight” stating that the word could be interpreted as opposing the then ruling party.

Political Parties and Political Participation: Although persons may generally use an alias when making online postings to large websites, the election campaign law requires real names for internet postings about forthcoming elections. Civil society groups called on the National Assembly to repeal that section of the election campaign law as well as a section that bans criticism of individual political candidates, asserting that such laws prohibit the electorate from being freely able to express views, impart information, and campaign.

Participation of Women and Minorities: No laws prevent women or members of minorities from voting, running for office, serving as electoral monitors, or otherwise participating in political life.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government, prodded by the media and civil society groups, generally implemented the law effectively; nonetheless, officials sometimes engaged in corrupt practices with impunity and there were numerous reports of government corruption during the year.

Corruption: At year's end, impeached former president Park Geun-hye was in a detention center while prosecution of the criminal case against her continued. In March the Constitutional Court upheld her impeachment for corruption, terminating her presidency and removing her immunity from criminal prosecution. In the December 2016 impeachment vote in the National Assembly, Park lost by a vote of 234 to 56. Park was accused of collaborating with Choi Soon-sil, a longtime friend and close confidante, to coerce companies to pay tens of millions of dollars to Choi's nonprofit foundations. Choi and Park's former senior secretary for policy coordination, Ahn Jong-beom, were indicted for their roles in the scheme.

In August, Samsung's Vice Chairman Jay Y. Lee was sentenced to a five-year jail term for bribing ousted president Park. The appellate court overturned the decision and sentenced him to probation. He was also convicted of embezzlement, hiding assets overseas, and perjury.

Financial Disclosure: By law public servants above a specified rank, including elected officials, must publicly declare their income and assets, including how they

accumulated them. Failure to disclose assets fully is punishable with up to one year in prison and a 10 million won (\$8,613) fine.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Several large civil society groups, NGOs, and umbrella labor unions claimed that the government restricted their operations or suppressed criticism (see sections 3, “Elections and Political Participation” and 7.a.).

Government Human Rights Bodies: The National Human Rights Commission (NHRC), established as an independent government body to protect and promote the human rights enumerated in the constitution, does not have enforcement power, and its recommendations and decisions are nonbinding. It investigates complaints, issues policy recommendations, trains local officials, and conducts education campaigns. NGOs asserted the NHRC was underresourced and not independent of the Office of the President. As of July, 5,498 allegations of human rights violations were filed with the NHRC, and it processed 4,563.

Ombudsman activities are the responsibility of the independent Anticorruption and

Civil Rights Commission, which had adequate resources to fulfill its duties. It issued annual reports and interacted with various government institutions, including the Office of the President, the National Assembly, and ministries. The commission continued to address complaints and concerns from both citizens and foreign residents, and observers stated it generally enjoyed the public's trust.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons Women

Rape and Domestic Violence: The law criminalizes rape and domestic violence. The police generally respond promptly and appropriately to reported incidents, and the judicial system effectively enforced the law. However, domestic violence was a significant, yet underreported problem. Both government and NGO surveys indicated that it occurs in about approximately 50 percent of households.

Although no specific statute defines spousal rape as illegal, the Supreme Court acknowledged marital rape as illegal. The penalty for rape ranges from a minimum of three years' to life imprisonment depending on the specific circumstances. Authorities effectively investigated and prosecuted rape, although in some cases victims dropped charges against perpetrators after reaching a financial settlement with the alleged perpetrator.

Multiple NGOs reported that sexual assault was a serious and underreported problem in the military.

The law defines domestic violence as a serious crime and authorizes authorities to order

offenders to stay away from victims for up to six months. This order may be extended up to two years. Offenders may be sentenced to a maximum of five years

in prison and fined up to seven million won (\$6,030) for domestic violence offenses.

Noncompliance with domestic violence restraining orders may result in a maximum sentence of two years in prison and a fine of up to 20 million won (\$17,230). Authorities may also place offenders on probation or order them to see court-designated counselors.

When there is a danger of domestic violence recurring and an immediate need for protection, the law allows a provisional order to be issued ex officio or at the victim's request. This may restrict the subject of the order from living in the same home, approaching within 109 yards of the victim, or contacting the victim through telecommunication devices.

Domestic violence occurred in 45.6 percent of all families, according to 2015 statistics (the most recent available) from the Ministry of Gender Equality and Family. The Women's Human Rights Commission reported a higher 53.3 percent. According to an August report by the Women's Human Rights Commission of Korea, the number of domestic violence cases reported to the emergency hotline for violence against women in 2015 increased by 15.6 percent from the same period in 2014. The number of cases of reported violence in nonmarital relationships increased by 31.7 percent.

Footage of a man hitting and kicking his former girlfriend before chasing her down a street in central Seoul with a truck in July triggered a police 100-day action campaign to combat violence against women. The Korean Institute of Criminology stated that the assault in broad daylight in the capital, while extreme, was not an isolated incident of abuse. The Institute conducted a study, based on responses from 2,000 men, which found that 80 percent had physically or psychologically abused a girlfriend while they were dating.

The Ministry of Gender Equality and Family funded 38 integrated support centers and 104 smaller counseling centers nationwide for victims of sexual violence called “sunflower centers,” providing counseling, medical care and therapy, case investigations, and legal assistance.

The law allows judges or a Ministry of Justice committee to sentence repeat sex offenders to chemical castration. In the first half of the year, 14 chemical castrations were performed.

The 2015 agreement with Japan on World War II “comfort women” (women trafficked for sexual purposes) remained controversial with some domestic and

foreign civil society and survivor groups. In July, Foreign Minister Kang Kyung- wha instructed a civilian task force to review the 2015 comfort women agreement between South Korea and Japan. The independent task force’s nonbinding report, released December 27, raised concerns about the contents of the 2015 agreement and the process by which it was negotiated, particularly the lack of

“adequate efforts” to include the views of the comfort women victims.

Sexual Harassment: The law obligates companies and organizations to take preventive measures against sexual harassment, and the government generally enforced the law effectively (see section 7.d.). The KNPA classifies sexual harassment as “indecent acts by compulsion.” There were numerous cases of sexual harassment reported in the media throughout the year.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: Women enjoy the same legal rights under the constitution as men. The law provides for equal pay for equal work, but the latest data from the Organization for Economic Cooperation and Development showed the gender pay gap was 37.2 percent in 2015 (see section 7.d.).

Children

Birth Registration: Citizenship requires one parent be a citizen at the time of birth. Authorities also grant citizenship in circumstances where parentage is unclear or if the child would otherwise be stateless. The law requires that all children be registered in family registries and prohibits adoption of children for the first

week after birth.

Child Abuse: The law criminalizes serious injury and repeated abuse of children, and provides prison terms of between five years and life. In 2016 the Ministry for Health and Welfare reported a 59 percent increase in confirmed child abuses cases compared to 2015, attributing this to a public education campaign and expanded reporting requirements. The Ministry for Health and Welfare operated 60 child protection agencies and 63 shelters to treat and protect victims of child abuse and ran programs for families designed to prevent reoccurrence. The government maintains a 24-hour online counseling center for victims of child abuse.

Several cases of severe child abuse were reported in the media during the year.

Early and Forced Marriage: The minimum legal age for men and women to marry is 18.

There were no reported cases of forced marriage.

Sexual Exploitation of Children: The age of consent is 13. It is illegal to deceive or pressure anyone under 19 into having sexual intercourse. Children, however, were vulnerable to sex trafficking and commercial sexual exploitation through online recruitment or recruitment of runaway girls.

The penalty for rape of a minor under age 13 ranges from 10 years to life in prison; the penalty for rape of a minor age 13 to 19 is five years to life. Other penalties include electronic monitoring of offenders, public release of their personal

information, and reversible hormonal treatment (chemical castration).

The law prohibits child pornography. Offenders who produce or possess it for the purpose of selling, renting, or distributing it for profit are subject to a maximum of seven years' imprisonment. In addition, any possessor of child pornography may be fined up to 20 million won (\$17,230).

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's Annual Report on International Parental Child Abduction at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

The country has a small Jewish population consisting almost entirely of expatriates.

There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual,

and mental disabilities. The law covering rights and support for the developmentally disabled created a special task force of prosecutors and police trained to work with persons with disabilities and their families in police investigations.

The government implemented laws and programs to facilitate access to buildings, information, and communications for persons with disabilities. Many local government ordinances and regulations still directly discriminate against persons with disabilities, especially those with intellectual and mental disabilities, according to media reports and NGOs. The National Human Rights Commission reported it had received multiple reports of discrimination against persons with disabilities.

The law establishes penalties for deliberate discrimination of up to three years in prison and a fine of 30 million won (\$25,840). The Ministry of Health and Welfare continued to implement a comprehensive set of policies that included encouraging public and private buildings and facilities to provide barrier-free access, providing part time employment, and employing a task force to introduce a long-term care system. The government operated rehabilitation hospitals in six regions and a national rehabilitation research center to increase opportunities and access for persons with disabilities.

The government provided a pension system for registered adults and children with disabilities, an allowance for children with disabilities under age 18 whose household income was below or near the National Basic Livelihood Security Standard, and a disability allowance for low-income persons age 18 and older

with mild disabilities.

Children with disabilities qualified as special education beneficiaries and there was a separate system of public special education schools for children from age three to

17. Children with more significant disabilities may receive hospitalized education. All public and private schools, childcare centers, educational facilities, and training institutions must provide equipment and other resources to accommodate students with disabilities.

National/Racial/Ethnic Minorities

As of November, more than 2.1 million foreigners (including an estimated 250,000 undocumented migrants) lived in the country, which otherwise had a racially homogeneous population of approximately 50.9 million. The country lacks a comprehensive antidiscrimination law, and the UN Special Rapporteur on Racism called for legislation to curb racism and xenophobia.

Societal discrimination against ethnic and racial minorities was common but underreported. The NHRC stated that most of the cases with foreign workers involved enforced eviction or mistreatment when detained in protection centers for foreign workers on charges of violating immigration laws.

Some children of immigrants suffered from discrimination and lack of access to social resources. Some children of non-Korean ethnicity or multiple ethnicities also

experienced bullying because of their physical appearance.

In response to the steady growth of ethnic minorities due largely to the increasing number of migrant workers and foreign brides, the Ministries of Gender Equality and Family and of Employment and Labor continued programs to increase public awareness of cultural diversity and to assist foreign workers, wives, and multicultural families to adjust to life in the country.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The Ministry of Justice reported the constitution's equality principles apply to LGBTI persons. The law that established the NHRC prohibits discrimination based on sexual orientation and authorizes the NHRC to review cases of such discrimination, but the law does not specify discrimination based on gender identity. The Military Criminal Act's "disgraceful conduct" clause criminalizes consensual sodomy between men in the military with up to two years' imprisonment; in July the Constitutional Court ruled that the clause was constitutional.

In May the General Military Court sentenced a gay soldier to six months in prison and a one year suspended sentence for having consensual same-sex intercourse with another soldier. He was among 40-50 soldiers investigated in an effort to target gay soldiers in the army by the army chief of staff.

No laws either specify punishment for persons found to discriminate against LGBTI persons or provide for remedies to victims of discrimination or violence. During the first half of the year, the NHRC reported two cases of such alleged discrimination.

HIV and AIDS Social Stigma

The law protects the right to confidentiality of persons with HIV/AIDS and prohibits discrimination against them. However, observers claimed persons with HIV/AIDS continued to suffer from societal discrimination and social stigma.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively, but certain limitations apply to public officials and teachers. A 2015 Supreme Court decision affirmed the right of all migrant workers, including undocumented workers, to form or join a union.

The law places some restrictions on unions' ability to organize their administration, including restricting the ability of union leaders to receive pay for time spent on union work. Laws banning education workers from engaging in certain political activities, such as joining a political party or openly endorsing a political party or candidate, also constrained unions' abilities to advocate for their positions.

The law also prohibits dismissed workers from being union members.

The law limits the right to strike, in particular for workers in “essential services.”

Essential services are defined broadly and include services such as railroads, air transport, communications, water supply and other utilities, and hospitals. By law unions in essential service industries may be required to maintain 50 percent service. Individuals designated as essential by management, with input from labor unions, may not strike. The law also prohibits strikes by national and local government officials, with some exceptions for specified public servants.

By law unions must submit a request for mediation to the National Labor Relations Commission (NLRC) before a strike; otherwise, the strike is illegal. Strikes initiated following this period are legal if they obtain majority support from union membership. The law prohibits strikes when a dispute is referred to binding arbitration.

The law adopts a narrow interpretation of “labor dispute,” which makes strikes on many issues falling under managerial control, such as downsizing and layoffs, illegal. Strikes not specifically pertaining to labor conditions, wages, benefits, or working hours are also considered illegal. Stakeholders noted that strike procedures were overly burdensome.

The law permits workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. The NLRC may require employers to reinstate workers fired for union activities.

The law prohibits retribution against workers who conduct a legal strike. Labor organizations noted the inability of full-time labor union officials to receive wages and onerous registration requirements for individuals involved in bargaining effectively limited legal protections against unfair labor practices.

The government generally enforced legislation related to freedom of association, collective bargaining, and collective action (which includes legal strikes).

Employers who violate a regulation on unfair labor practices may be imprisoned or fined). In addition, an employer can be punished for disregarding a NLRC order to reinstate a worker. The law sets penalties, in the form of fines or imprisonment, against employers who refuse or neglect to accept unions' legitimate requests for bargaining. The law also penalizes illegal strike activities with imprisonment or a fine), depending on the offense.

Many labor organizations generally operated without government interference; however, stakeholders noted the government used overly broad criminal legal provisions, including the "obstruction of business" provisions, to justify criminal prosecutions and other extreme measures against union leaders to suppress strikes.

In May the second panel of the Supreme Court rejected further appeals by the president of the Korean Confederation of Trade Unions, Han Sang-gyun, of his July 2016 conviction on six, mostly obstruction-related, charges. The charges arose from his role in organizing a November 2015 "People's Rally" which resulted in injuries to 76 Korean National Police personnel, obstruction of public duty of

32 police personnel, and damage to 43 police buses and 138 pieces of equipment, including torn police uniforms and vests. Han was first sentenced to five years in prison and a 500,000 won (\$430) fine. This was reduced on appeal to three years in prison and a fine of 500,000 won (\$444), which sentence the Supreme Court confirmed.

NGOs and labor experts noted a one-year sentence had been the norm in recent years for leading labor protests, and progressive local media noted Han's punishment was "the stiffest sentence for a rally organizer since the country's democratization in 1987." The UN Special Rapporteur expressed his concern about "a trend of gradual regression on the rights to freedom of peaceful assembly and of association," during his January 2016 visit.

In his June 2016 report, the UN Special Rapporteur noted examples of antiunion practices by companies, including: encouraging the formation of management-supported unions; undermining employee unions through various means including surveillance, threats, and undue pressure on members; disguised subcontracting to avoid selected employer responsibilities and dismissal of members; firing union leaders and workers following strike action; and assigning union leaders demeaning jobs to demoralize them. He noted employers allegedly used labor relations consultancy firms to obtain advice that facilitates the erosion of trade union rights. The International Trade Union Confederation noted similar concerns during the year, including employers imposing the choice of union on construction workers and discrimination against unionized workers at a car factory.

As of September 2016, the Migrants' Trade Union (MTU) had approximately 1,200 members. In its first year as a recognized union, the MTU conducted organizing campaigns and training for workers. It also mobilized members to advocate for a minimum wage increase and better working conditions.

Nonetheless, undocumented foreign workers still face difficulties participating in union activities due to fear of exposing themselves to arrest and deportation.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes all forms of forced or compulsory labor.

The government generally enforced the law effectively. Penalties for forced labor are commensurate with those for other serious crimes and the government stated they were sufficient to deter violations.

There were reports some migrant workers were subject to forced labor. Migrant workers who traveled to the country for employment sometimes incurred thousands of dollars in debts, making them vulnerable to debt bondage. Some migrant workers in the agriculture, livestock, and fishing industries faced conditions indicative of forced labor, including deceptive recruiting practices, confiscation of passports, and nonpayment of wages.

The Ministry of Employment and Labor (MOEL) reported passport confiscation was "rare" due to increased employer awareness that it is a violation of the

Immigration Control Law. Civil society groups and foreign workers centers explained that, although illegal confiscation was increasingly uncommon, many foreign workers unknowingly sign paperwork legally authorizing employers to obtain passports and other forms of identification on their behalf; thus, many of the problems associated with passport confiscation remain unaddressed.

Amnesty International's 2015/16 report noted it was extremely difficult for migrant workers to seek alternative employment under the terms of the Employment Permit System (EPS) even if they experienced exploitation or abuse by their employer and highlighted poor conditions for migrant workers in agriculture (see section 7.d.), including conditions indicative of forced labor.

The media reported suicide was the number one cause of migrant workers' deaths followed by industrial accidents, illnesses, and car accidents. According to the Korea Confederation of Trade Unions, since the implementation of EPS in 2007, 36 Nepali migrant workers have committed suicide. This number includes nine Nepali migrant workers who committed suicide in 2015, seven in 2016, and five as of August. The stated reasons for the suicides included depression, overwork, and unpaid additional allowances.

Also see the Department of State's Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of persons under age 15 without an authorization certificate from the MOEL. Authorities issued few such certificates for full-time employment because education is compulsory through middle school (approximately age 15). To obtain employment, children under 18 must obtain written approval from either parents or guardians. According to labor laws, employers in industries considered harmful or hazardous in ethical or health terms are prohibited from employing children under 18 and can face fines or imprisonment. Inspections and penalties were sufficient to ensure compliance.

The government reported two violations of child labor law in the year to November.

There were some reports of commercial sexual exploitation of children (see section 6, “Children”).

d. Discrimination with Respect to Employment and Occupation

The constitution and laws prohibit discrimination in employment based on race, gender, disability, sexual orientation, and social status. The law states there shall

be no discrimination in economic, social, or cultural life based on sex, religion, or social status. The law explicitly prohibits employment discrimination on the basis of age, physical condition, hometown, education, marital status, pregnancy, nationality, or medical history. There are no laws explicitly prohibiting discrimination on the basis of color, political opinion, language, or HIV or other communicable disease status.

The law requires equal pay for equal work when men and women do work of equal value in the same business. Labor laws generally provide foreign migrant workers the same legal protections as nationals, but the government did not effectively implement the law.

There was no comprehensive mechanism to enforce all these provisions if discrimination occurred.

Discrimination occurred against persons with HIV/AIDs, women, persons with disabilities and migrant workers.

Discrimination against women in both hiring and in employment continued. Women continued to experience a pay gap, and a higher percentage of women filled lower-paying, low-skilled, contract jobs. Women often faced difficulties returning to the workforce after childbirth. According to the Ministry of Gender and Equality, in July nearly seven out of 10 of the country's top 500 companies were found to have zero women at the executive level.

The Counseling Center against Sexual Violence in Busan, the country's second largest city, funded by the Ministry of Gender Equality and Family, revealed on August 25 that the number of the cases of sexual harassment has doubled to 1,038 in 2016 from 536 cases in 2015.

The law excludes "those who clearly lack the capacity to work." In 2014 the UN

Committee on the Rights of Persons with Disabilities stated its concern that many persons with disabilities who work, especially those with psychosocial disabilities, received compensation below the minimum wage. A person with disabilities working for any company with 50 full time employees can request a reasonable accommodation, such as adjusted working hours, and the denial of such a request could constitute discrimination. According to the Korea Employment Agency for the Disabled's latest report, as of May 2016, approximately one-half of the estimated 1.36 million persons between ages 15 to 64 with disabilities were employed.

Many migrant workers face discrimination and difficult working conditions. The maximum length of stay under the EPS is four years and 10 months, just under the five years needed to apply for permanent residency. Some NGOs and civil society groups asserted this explicitly excludes foreign workers from permanent residence or citizenship eligibility. Amnesty International's 2015-16 report stated the terms of the EPS make it extremely difficult for migrant workers to seek alternative employment even if they experience exploitation or abuse by their employer (see sections 7.b. and 7.e.).

The law prohibits discrimination against informal or irregular workers (those who do not have full-time, permanent employment and who do not receive benefits at the same level as permanent workers) and requires the conversion of those employed longer than two years to permanent status. Nonetheless, subcontracted workers (known as "dispatched workers") and temporary

workers comprised over one-fifth of wage workers in the labor force and faced discriminatory working conditions on the grounds of employment type.

NGOs and the local media reported irregular workers were at greater risk for discrimination because of their status (see section 7.e.).

e. Acceptable Conditions of Work

In July the government raised the minimum wage by 16.4 percent to 7,530 won (\$6.49) per hour for 2018, marking its biggest jump in nearly two decades. A person making the minimum wage for a 40-hour workweek would earn significantly less than the minimum monthly cost of living for a family of four, according to the Ministry of Health and Welfare.

The law allows a flexible system under which employees may work more than eight hours during certain days or more than 40 hours per week during certain weeks, so long as average weekly work hours for any given two-week period do not exceed 40. For employers who adopt a flexible system, amounts exceeding 40 hours constitute overtime. Foreign companies operating in the export processing zones are exempt from labor regulations that mandate one day of rest a week, such as weekends, also referred to as “weekly rest.” The law limits overtime of ordinary workers to 12 hours a week to protect workers’ health.

The government sets occupational health and safety standards and is responsible for monitoring industry adherence. Under the law, workers have the right to

remove themselves from situations of danger without jeopardizing their employment.

These standards apply to all sectors, including agriculture, fisheries, and mining.

The government enforced laws on wages and acceptable conditions of work for all sectors. Penalties for violations of occupational safety and health provisions and overtime regulations include imprisonment and fines. These were sufficient to deter violations; the government reported a more than 25 percent drop in indictments for violations from 2015 to 2016. The government conducted labor inspections both proactively, according to regulations, and reactively, within a month after an accident occurred. MOEL conducted on-site inspections in the second half of 2016 and found violations at 86.8 percent of workplaces. The International Labor Organization observed, however, that the number of labor inspectors was insufficient and that unannounced inspections were rare. The government also conducted educational programs to prevent accidents.

A set of regulations outlines legal protections for migrant (those under the EPS) and foreign (all others) workers. Permit holders may work only in certain industries and had limited job mobility, but most enjoyed the same protections under labor law as citizens. Contract workers, irregular workers, and part-time workers accounted for a substantial portion of the workforce, particularly in electronics, automotive, and services sectors.

Workers under the EPS faced multiple restrictions on employment mobility. Such workers lose their legal status if they lost their job and did not find a new

employer within three months. If a migrant worker is not able to get a job within three months, authorities could cancel his/her work permit, forcing the worker to return home or remain in the country illegally. This situation was particularly difficult for seasonal workers, such as those involved in agriculture or construction.

Migrant workers did not have access to lists of companies that were hiring when they wanted to change jobs, which made it more difficult for these workers to change jobs freely. Employers effectively controlled the list of job-seeking workers and had the right to contact the person they choose. Migrant laborers were required to return home after a maximum of four years and 10 months in the country but could apply to reenter after three months.

To prevent violations and improve working conditions for migrant and foreign workers, the government provided pre-employment training to newly arrived foreign workers, workplace adaptation training to those who changed workplaces, and training to employers who hired foreign workers. The government funded 42

Foreign Workers Support Centers nationwide, a call center that provided foreign workers with counseling services in 15 languages, Korean language and cultural programs, shelter, and free health-care services. MOEL continued programs for foreign workers, including free legal advice, counseling, translation services, health checkups in their native language, and the establishment of several human rights protection centers for foreigners.

MOEL partnering with the Ministry of Justice and Ministry of Gender Equality and

Family, established 16 Multicultural Family and Migrant Centers in to provide foreigners workers, international marriage immigrants, etc., with a one-stop service center (including immigration, welfare and education services).

The law requires severance payments to migrant workers departing the country who worked for at least one year. Many workers, however, reported difficulty in receiving payments after returning to their home country due to banking regulations and intransigent employers. NGOs reported that many departing migrants never received these payments.

Some NGOs reported migrant workers were particularly vulnerable to exploitation because the law excludes regulations on working hours, holidays, and benefits for the agricultural, livestock, and fisheries industries--industries with large populations of migrant workers. Other NGOs reported foreign laborers sometimes faced physical abuse and exploitation by employers in the form of longer working hours and lower wages than their local Korean counterparts. Moreover, according to NGOs, workers also faced unexpected contract changes, such as the deduction of accommodation or meal expenses from wages.

The government reported descriptions of and statistics on work-related injuries and fatalities on a quarterly basis on its websites. The Korean Overseas Safety and Health Agency reported there were 67,651 industrial work-related accidents and 1,512 fatalities as of September. In May, six persons died and over 20 others were injured when a crane collapsed in the Geoje Shipbuilding Yard of Samsung Heavy Industries.

APPENDIX C

ENFORCEMENT RULE OF THE ACT ON THE EMPLOYMENT, ETC. OF FOREIGN WORKERS(SOUTH KOREA)

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Rule is to prescribe the matters delegated by the Act on the Employment, etc. of Foreign Workers and the Enforcement Decree of said Act and other matters necessary for the enforcement thereof.

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

CHAPTER II PROCEDURES FOR EMPLOYMENT OF FOREIGN WORKERS

Article 2 (Job Placement)

The head of an employment security office under subparagraph 1 of Article 2-2 of the Employment Security Act (hereinafter referred to as an "employment security office") shall, where assisting an employer in recruiting workers pursuant to Article 6 (2) of the Act on the Employment, etc. of Foreign Workers (hereinafter referred to as the "Act"), actively utilize free-charging job placement services conducted by public agencies, such as a local government, and operators of free job placement services under Article 18 of the Employment Security Act.

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Articles 3 and 4 Deleted. <by Ordinance of the Ministry of Labor No. 254, Jun. 30, 2006>

Article 5 (Issuance of Written Employment Permit)

(1) Where an employer applies for an employment permit for foreign workers in accordance with Article 8 (1) of the Act, he/she shall file an application for issuance of a written employment permit for foreign workers prescribed in attached Form 4 with the head of an employment security office having jurisdiction over the location of the relevant business or workplace (hereinafter referred to as the "head of the competent employment security office of the relevant location") within three months after the intended period for recruitment of nationals under Article 5-2 has expired, together with documents proving the satisfaction of the requirements in subparagraph 1 of Article 13-4 of the Decree of the Act on the Employment, etc. of Foreign Workers (hereinafter referred to as the "Decree").

(2) Where the head of the competent employment security office of the relevant location recommends foreign job-seekers to an employer pursuant to Article 8 (3) of the Act, he/she shall recommend at least three times the number of persons to be recruited, from among the number of eligible job-seekers who meet such requirements for recruitment as requested by the employer: Provided, That where the number of eligible persons is less than three times the number of persons to be recommended, such eligible persons shall be recommended.

(3) An employer shall select foreign workers from among the eligible persons recommended pursuant to paragraph (2) within three months after applying for the issuance of employment permits for foreign workers pursuant to paragraph (1), and an employer who has not employed foreign workers from among eligible persons within such period shall, where intending to employ foreign workers, make a reapplication for an employment permit for foreign workers.

(4) A written employment permit under Article 8 (4) of the Act shall be as specified in attached Form 5.

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 5-2 (Period for Endeavoring to Recruit Nationals)

(1) "Period determined by Ordinance of the Ministry of Employment and Labor" in subparagraph 2 of Article 13-4 of the Decree means a period under the following classifications: <Amended by Ordinance of the Ministry of Employment and Labor No. 143, Dec. 30, 2015>

1. Agriculture, livestock and fisheries: 7 days;
 2. Categories of business other than those referred to in subparagraph 1: 14 days.
- (2) Notwithstanding paragraph (1), the period referred to in paragraph (1) 1 may be reduced to three days and the period referred to in paragraph (1) 2 may be reduced to seven days, respectively, in cases falling under any of the following subparagraphs:
1. Where the head of the employment security office having jurisdiction over the relevant location recognizes the employer's active endeavor to recruit nationals, as a result of reviewing a certificate of endeavoring to recruit nationals in attached Form 5-2 submitted by the employer;
 2. Where the employer has endeavored to make public the recruitment of nationals for at least three days through any of the following media while endeavoring to recruit nationals through the employment security office having jurisdiction over the relevant location;
 - (a) A general daily newspaper under subparagraph 1 (a) of Article 2 of the Act on the Promotion of Newspapers, Etc. or a special daily newspaper (limited to a newspaper in the field of economy or industry) under subparagraph 1 (b) thereof;

(b) An informative publication under subparagraph 1 (b) of Article 2 of the Act on Promotion of Periodicals, Including Magazines, an electronic publication under subparagraph 1 (c) thereof and any other publication under the subparagraph 1 (d) thereof;

(c) Broadcasting under subparagraph 1 of Article 2 of the Broadcasting Act.

[This Article Wholly Amended by Ordinance of the Ministry of Employment and Labor No. 143, Dec. 30, 2015]

Article 6 (Re-Issuance of Written Employment Permits)

Where intending to be reissued a written employment permit for a foreign worker pursuant to Article 14 (2) of the Decree, an employer shall file an application for re-issuance of a written employment permit for a foreign worker in attached Form 4 with the head of the competent employment security office of the relevant location within seven days from the date of becoming aware of the occurrence of any ground for re-issuance, together with the following documents:

1. The original written employment permit for a foreign worker;
2. A document proving the satisfaction of the requirement of the subparagraph 1 of Article 13-4 of the Decree (limited to where the type and size of the business and workplace are different from those at the time of issuance of the initial written employment permit).

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 7 Deleted. <by Ordinance of the Ministry of Labor No. 254, Jun. 30, 2006>

Article 8 (Standard Employment Contract)

A standard employment contract under Article 9 (1) of the Act shall be as specified in attached Form 6, and that in the sectors of agriculture, animal husbandry and fisheries shall be as specified in attached Form 6-2. <Ordinance of the Ministry of Employment and Labor No. 137, Oct. 22, 2015; Ordinance of the Ministry of Employment and Labor No. 81, Feb. 28, 2017>

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 9 (Permission for Extension of Employment Permit Period)

(1) Where an employer intends to receive permission for the extension of the period of employment permission pursuant to Article 17 (2) of the Decree, he/she shall file an application for extension of the employment permission period in attached Form 7 with the head of the competent employment security office of the relevant location, together with the following documents. In such cases, the head of the competent employment security office of the relevant location shall confirm the business registration certificate through the sharing of administrative information under Article

36 (1) of the Electronic Government Act, and shall, where the applicant withholds consent to the confirmation of the business registration certificate, have that applicant attach a copy of the relevant documents: <Amended by Ordinance of the Ministry of Employment and Labor No. 53, May 14, 2012; Ordinance of Employment and Labor No. 103, Jul. 28, 2014.>

1. A copy of the renewed employment contract;
2. Deleted; <by Ordinance of the Ministry of Employment and Labor No. 103, Jul. 28, 2014>
3. A copy of the alien registration certificate under Article 33 of the Immigration Act (hereinafter referred to a "alien registration certificate");
4. A copy of the first page of the passport.

(2) The head of the competent employment security office of the relevant location in receipt of an application for extension of the employment permission period under paragraph (1) shall issue a written employment permit for foreign workers in attached Form 5, specifying the extended days of the employment permission period within seven days from the date of application.

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 10 (Time Limit for Completion of Employment Training for Foreign Workers)

"Period set by Ordinance of the Ministry of Employment and Labor" in Article 11 (1) of the Act means 15 days. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 11 (Hours and Curriculum of Training of Foreigners)

(1) An employment training institution for foreign workers under Article 18 of the Decree shall report the matters determined by the Minister of Employment and Labor, such as an implementation plan for employment training for foreigners for the relevant year, within one month after publishing a plan for introducing foreign workers under Article 5 (1) and (2) of the Act, and shall, in case of changing any of such matters, report the changed matter to the Minister without delay. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010; Ordinance of the Ministry of Employment and Labor No. 143, Dec. 30, 2015>

(2) The hours of employment training of foreigners shall be at least 16 hours: Provided, That where a foreigner who re-enters Korea via the legal procedures after the period of job-seeking activities of under Articles 18 and 18-2 of the Act has expired, the hours of his/her employment training may be reduced to less than 16

hours. <Amended by Ordinance of the Ministry of Employment and Labor No. 29, Jul. 5, 2011>

(3) The curriculum of employment training of foreigners shall include the following matters: Provided, That employment training on the content falling under subparagraph 1 and 5 shall be omitted for foreign workers who re-enter the Republic of Korea after having left it due to the expiration of the period of job-seeking activities pursuant to Articles 18 and 18-2 of the Act, and are eligible for special cases for employment of foreign workers under Article 19 of the Decree: <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010; Ordinance of the Ministry of Employment and Labor No. 143, Dec. 30, 2015>

1. Matters concerning basic job skills by type of business necessary for job-seeking activities;
2. Matters concerning the system for employment permits for foreign workers;
3. Matters concerning occupational safety and health;
4. Matters concerning the relevant Acts and subordinate statutes, including the Labor Standards Act, the Immigration Act, etc.;
5. Matters concerning the culture and life in Korea;
6. Other matters recognized by the Minister of Employment and Labor as necessary for job-seeking activities.

(4) Expenses incurred in employment training of foreigners shall be borne by employers: Provided, That this shall not apply to any expense incurred in employment training for those persons falling under Article 19 of the Decree.

(5) Where a foreign worker has completed the employment training of foreigners, the head of an employment training institution of foreigners shall issue a completion certificate of employment training institution of foreigners in attached Form 8.

(6) Where the head of an employment training institution of foreigners provides employment training to foreigners, he/she shall report the result thereof to the Minister of Employment and Labor without delay. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 12 (Application for Employment)

A foreign worker who intends to file a job application pursuant to Article 12 (2) of the Act shall submit an application for job-seeking in attached Form 9 to the head of the competent employment security office of the relevant location, together with the following documents: <Amended by Ordinance of the Ministry of Employment and Labor No. 53, May 14, 2012>

1. A copy of the alien registration certificate or a copy of the first page of the

passport;

2. A copy of the visa for sojourn status of Work and Visit (H-2) under the Enforcement Decree of the Immigration Act.

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 12-2 (Issuance of Written Certification of Exceptionally Permissible Employment)

(1) An employer who intends to file an application for certification of exceptionally permissible employment pursuant to the former part of Article 12 (3) of the Act shall file an application for issuance of certification of exceptionally permissible employment in attached Form 10 with the head of the competent employment security office of the relevant location, together with documents proving the fulfillment of the requirements for issuance of employment permit under Article 13-4 of the Decree which applies mutatis mutandis in accordance with Article 20 (1) of the Decree.

(2) The head of the competent employment security office of the relevant location in receipt of an application pursuant to paragraph (1) shall, where, as a result of reviewing the application, it satisfies the relevant requirements, issue a written certification of exceptionally permissible employment in attached Form 10-2, within seven days from the date of application.

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 12-3 (Report of Commencement of Employment)

An employer subject to reporting the commencement of employment pursuant to Article 12 (4) of the Act shall submit a report of the commencement of employment of an exceptionally employed foreign worker in attached Form 11 to the head of the competent employment security office of the relevant location within 14 days from the date the foreign worker's employment has commenced, together with the following documents: <Amended by Ordinance of the Ministry of Employment and Labor No. 53, May 14, 2012, Ordinance of the Ministry of Employment and Labor No. 109, Sep. 30, 2014; Ordinance of the Ministry of Employment and Labor No. 277, Jan. 10, 2020>

1. A copy of the standard employment contract;
2. A copy of the alien registration certificate or the first page of the passport;
3. Deleted. <by Ordinance of the Ministry of Employment and Labor No. 277, Jan. 10, 2020>

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 13 (Confirmation of Change of Certification of Exceptionally Permissible

Employment)

(1) "Important matters determined by Ordinance of the Ministry of Employment and Labor" in Article 20-2 (1) of the Decree means any of the following matters:

<Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

1. The number of foreign workers to be employed in the business or workplace;
2. Type and scale of the business or workplace.

(2) An employer subject to verification of the change of a written certification of exceptionally permissible employment pursuant to Article 20-2 (1) of the Decree shall submit an application for a written certification of exceptionally permissible employment in attached Form 10 to the head of the competent employment security office of the relevant location, together with the following documents:

1. The original written certification of exceptionally permissible employment of foreign workers;
2. A document proving the necessity to change any matter falling under any of the subparagraphs of paragraph (1).

(3) Where, as a result of reviewing the application for change of a written certification of exceptionally permissible employment, it is deemed necessary to change any matter falling under any of the subparagraphs of paragraph (1), the head of the competent employment security office of the relevant location in receipt of an application pursuant to paragraph (2) shall issue a certification of the change of exceptionally permissible employment in attached Form 10-2, within seven days from the date of application for change.

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

CHAPTER III MANAGEMENT OF EMPLOYMENT OF FOREIGN WORKERS

Article 14 (Reporting on Change of Employment)

Within 15 days after any ground falling under Article 17 (1) of the Act occurs or an employer has become aware of occurrence of such ground, he/she submit a report on employment change, etc. of a foreign worker in attached Form 12 or a report of change of information on the workplace employing a foreign worker in attached Form 12-2, specifying the fact to the head of the competent employment security office of the relevant location. <Amended by Ordinance of the Ministry of Employment and Labor No. 103, Jul. 28, 2014>

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 14-2 (Special Procedures concerning Restriction on Period of Job-Seeking Activities)

(1) An employer who intends to obtain a permit for re-employment under Article 18-2 of the Act shall, as far as a foreign worker whose employment contract is still effective for at least one month until the expiry date of the period of job-seeking activities, submit an application for extension of the period of job-seeking activities of a person whose period of employment has expired in attached Form 12-3 to the head of the competent employment security office of the relevant location, together with the following documents, within seven days before the expiry date of the period of job-seeking activities of the relevant foreign worker. In such cases, the head of the competent employment security office of the relevant location shall verify the business registration certificate through the sharing of administrative information under Article 36 (1) of the Electronic Government Act, and where the applicant withholds consent to the confirmation of the business registration certificate, shall have that applicant attach the copy thereof: <Amended by Ordinance of the Ministry of Employment and Labor No. 29, Jul. 5, 2011; Ordinance of the Ministry of Employment and Labor No. 103, Jul. 28, 2014>

1. Deleted; <by Ordinance of the Ministry of Employment and Labor No. 103, Jul. 28, 2014.>
2. A copy of the alien registration certificate;
3. A copy of the first page of the passport;
4. A copy of the standard employment contract.

(2) The head of the competent employment security office of the relevant location in receipt of an application pursuant to paragraph (1) shall, if such application meets the relevant requirement as a result of reviewing the application for extension, issue a certification of extension of the period of job-seeking activities of the person whose employment period has expired in attached Form 12-4, within seven days from the date of receipt of the application.

(3) The head of the competent employment security office of the relevant location shall inform the Minister of Justice and the Human Resources Development Service of Korea under the Human Resources Development Service of Korea Act (hereinafter referred to as "Human Resources Development Service of Korea") of the details of the certification of extension of the period of job-seeking activities of the person whose employment period has expired under paragraph (2), and the Human Resources Development Service of Korea shall separately prepare and manage the list of persons for whom the period of job-seeking activities has been extended.

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 14-3 (Procedures concerning Special Cases of Restriction on Employment After Re-Entry)

(1) An employer who intends to obtain a permit for employment after re-entry of a foreign worker under Article 18-4 (1) of the Act shall submit an application for an employment permit for a person whose re-employment has expired in attached Form 12-5 to the head of the competent employment security office of the relevant location, together with the following documents within seven days before the date of the period of job-seeking activities extended pursuant to Article 18-2 of the Act expires:

1. A copy of the alien registration certificate;
2. A copy of the first page of the passport;
3. A copy of the standard employment contract.

(2) The head of the competent employment security office of the relevant location in receipt of an application under paragraph (1) shall verify the business registration certificate through the sharing of administrative information under Article 36 (1) of the Electronic Government Act, and where the applicant withholds consent to the verification of the certificate of business registration, have that applicant attach that certificate.

(3) If the head of a competent employment security office in receipt of an application under paragraph (1) finds from reviewing the application that a foreign worker meets the requirements under each subparagraph of Article 18-4 (1) of the Act and the criteria for issuing the visa issuance certificate under attached Table 1 of the Enforcement Decree of the Immigration Act and Article 17-3 of the Enforcement Rule of the Immigration Act, the head of the competent employment security office shall issue an employment permit for a foreign worker in attached Form 5, within seven days from the date of receipt of the application. <Amended by Ordinance of the Ministry of Employment and Labor No. 201, Dec. 8, 2017>

(4) The head of the competent employment security office of the relevant location shall inform the Minister of Justice and the Human Resources Development Service of Korea of the details of the written employment permit under paragraph (3), and the Human Resources Development Service of Korea shall separately prepare and manage the list of persons who are engaged in job-seeking activities after re-entry.

[This Article Newly Inserted by Ordinance of the Ministry of Employment and Labor No. 53, May 14, 2012]

Article 15 (Notification of Limitation on Employment)

Notification prescribed in Article 20 (2) of the Act shall be made in writing, specifying the grounds limiting the employment of the foreign worker.

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

CHAPTER IV PROTECTION OF FOREIGN WORKERS

Article 15-2 (Composition and Operation of Councils for Protection of Rights and

Interests of Foreign Workers)

(1) The Council for Protection of Rights and Interests of Foreign Workers under Article 24-2 of the Act shall be comprised of the following organizations recommended by the head of the employment security office:

- (a) A workers' organization;
- (b) An employers' organization;
- (c) A foreign workers' organization;
- (d) Other organizations deemed necessary with respect to support for foreign workers.

(2) The Councils for Protection of Rights and Interests of Foreign Workers may consult on the following matters:

1. Matters concerning the change of the workplace of a foreign worker;
2. Schemes for resolving conflicts between a foreign worker and his/her employer;
3. Schemes for supporting job-seeking activities and life of a foreign worker;
4. Other matters deemed necessary with respect to the protection of rights and interests of foreign workers.

(3) The head of an employment security office shall endeavor to reflect the content of an agreement reached in the Council for Protection of Rights and Interests of Foreign Worker at the time performing affairs related to foreign workers.

[This Article Newly Inserted by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 16 (Change of Business or Place of Business)

(1) Where a foreign worker intends to change the business or place of business employing him/her pursuant to Article 25 (1) of the Act, he/she shall submit an application for change of place of business in attached Form 13 or 13-2 to the head of the competent employment security office of the relevant location, together with a copy of the first page of his/her passport (limited to where it is impossible to verify the certificate concerning the fact of alien registration under paragraph (3)), and the head of the competent employment security office of the relevant location may, if necessary to verify any of the grounds falling under any of the subparagraphs of Article 25 (1) of the Act, have the foreign worker submit the relevant documents.

(2) A foreign worker who falls under the proviso to Article 25 (3) of the Act shall submit an application for extension of the period of application for workplace change in attached Form 13-3 to the head of the competent employment security office of the relevant location, together with a copy of the first page of his/her passport (limited to where it is impossible to verify the certificate concerning the fact of alien registration under paragraph (3)) and other document proving the cause of the application, such as his/her occupational accident, disease, pregnancy and childbirth.

(3) The head of the competent employment security office of the relevant location who has received an application under paragraphs (1) or (2) shall verify the certificate of the fact of alien registration under Article 88 of the Immigration Act through the sharing of administrative information under Article 36 (1) of the Electronic Government Act: Provided, That where the applicant withholds consent to the verification, the head of the competent employment security office of the relevant location may have the applicant attach such document. <Amended by Ordinance of the Ministry of Employment and Labor No. 53, May 14, 2012>

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

CHAPTER V SUPPLEMENTARY PROVISIONS

Article 17 (Request for Submission of Materials)

(1) Where the Minister of Employment and Labor or the head of a local employment and labor office issues an order pursuant to Article 26 (1) of the Act, he/she shall permit the submission period of at least seven days, but may extend the period once in unavoidable circumstances. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

(2) Where the Minister of Employment and Labor or the head of a local employment and labor office conducts the investigation and inspection or guidance and verification of the business or workplace employing foreign workers pursuant to Article 26 (1) of the Act or Article 23 (2) of the Decree, he/she shall record and manage the results in a register of guidance, verification, etc. in attached Form 14. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 18 (Collection of Fees)

(1) A person who vicariously concludes an employment contract pursuant to Article 27 (1) of the Act and a person who vicariously performs affairs related to employment of foreign workers pursuant to paragraph (3) of the same Article may, in cases of intending to receive the fees and necessary expenses from the employers, collect them after obtaining approval for the following matters from the Minister of Employment and Labor: <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

1. Amounts of the fees, etc. and the standards for calculation therefor;
 2. Methods and procedures for the collection of the fees, etc.;
 3. Specifications for collection of the fees, etc.;
 4. Matters necessary for the collection of the fees, etc.
- (2) Paragraph (1) shall apply mutatis mutandis to where a person who performs on

consignment any business falling under any of the subparagraphs 1 through 4 of Article 21 of the Act pursuant to Article 28 of the Act and Article 31 (2) and (3) of the Decree intends to collect fees and necessary expenses from the employer. <Amended by Ordinance of the Ministry of Employment and Labor No. 53, May 14, 2012> [This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 18-2 (Designation and Operation of Agencies)

(1) An agency under Article 27-2 (1) of the Act shall be designated by the Minister of Employment and Labor from among institutions meeting all the following requirements: <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

1. To have administrative capabilities and experience to perform the relevant project;
2. To have the performance record of a project for supporting employers and foreign workers;
3. To be able to ensure the publicness of the relevant tasks when performing such tasks.

(2) "Affairs concerning the employment of foreign workers, as prescribed by Ordinance of the Ministry of Employment and Labor" in Article 27-2 (1) 5 of the Act means the following affairs: <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010; Ordinance of the Ministry of Employment and Labor No. 29, Jul. 5, 2011; Ordinance of the Ministry of Employment and Labor No. 53, May 14, 2012>

1. Application for issuance and re-issuance of an employment permit under Article 8 (4) of the Act and Article 14 (2) of the Decree;
2. Application for certification of exceptionally permissible employment under Article 12 (3) of the Act;
3. Report on the commencement of employment under Article 12 (4) of the Act;
4. Report on the employment change under Article 17 (1) of the Act;
5. Application for certification of the change of exceptionally permissible employment under Article 20-2 (1) of the Decree;
6. Other affairs designated by the Minister of Employment and Labor.

(3) The Minister of Employment and Labor shall issue a designation certificate of the agencies which are designated pursuant to paragraph (1), specifying the scope of their tasks. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

(4) Except as provided in paragraphs (1) through (3), detailed matters necessary for the designation requirements and procedures, etc. shall be determined and publicly

notified by the Minister of Employment and Labor. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

[This Article Newly Inserted by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 18-3 (Cancellation of Designation of Agencies)

The Minister of Employment and Labor may cancel the designation of an agency, issue an order for rectification thereto, or suspend the business thereof on the basis of the following classifications pursuant to Article 27-3 (1) of the Act:

1. Where the agency falls under Article 27-3 (1) 1 of the Act: cancellation of designation;
2. Where the agency falls under Article 27-3 (1) 2 of the Act: order of rectification or cancellation of designation;
3. Where the agency falls under Article 27-3 (1) 3 or 4 of the Act: order of rectification or suspension of business of not more than six months.

[This Article Wholly Amended by Ordinance of the Ministry of Employment and Labor No. 143, Dec. 30, 2015]

Article 19 (Regulations on Treatment of Tasks)

With respect to tasks entrusted by the Minister of Employment and Labor pursuant to Article 31 (2) and (3) of the Decree, the Human Resources Development Service of Korea may formulate regulations necessary for handling such tasks after obtaining approval from the Minister of Employment and Labor. <Amended by Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

[This Article Wholly Amended by Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010]

Article 20 (Re-Examination of Restrictions)

(1) The Minister of Employment and Labor shall assess the validity of the period for endeavoring to recruit nationals under Article 5-2 every five years (referring to immediately before every fifth anniversary from January 1) from the reference date, January 1, 2014, and shall then take measures for improvement, etc. thereof.

<Amended by Ordinance of the Ministry of Employment and Labor No. 117, Dec. 31, 2014>

(2) The Minister of Employment and Labor shall, on the following dates as the reference dates, assess the validity of the following matters falling every three years (referring to immediately before the same date of the third year as the relevant reference date of the first year) and shall then take measures for improvement, etc. thereof: <Newly Inserted by Ordinance of the Ministry of Employment and Labor No. 117, Dec. 31, 2014; Ordinance of the Ministry of Employment and Labor No. 181, Feb. 28, 2017; Ordinance of the Ministry of Employment and Labor No. 277, Jan. 10,

2020>

1. Deleted; <by Ordinance of the Ministry of Employment and Labor No. 277, Jan. 10, 2020>
2. Hours and curriculum of employment training of foreign workers under Article 11: January 1, 2017;
3. Deleted. <by Ordinance of the Ministry of Employment and Labor No. 277, Jan. 10, 2020>

[This Article Newly Inserted by Ordinance of the Ministry of Employment and Labor No. 94, Dec. 30, 2013]

ADDENDUM

This Rule shall enter into force on August 17, 2004.

ADDENDUM <Ordinance of the Ministry of Labor No. 221, Mar. 12, 2005>

This Rule shall enter into force on the date of its promulgation.

ADDENDUM <Ordinance of the Ministry of Labor No. 254, Jun. 30, 2006>

This Rule shall enter into force on July 1, 2006.

ADDENDUM <Ordinance of the Ministry of Labor No. 255, Jul. 19, 2006>

This Rule shall enter into force on the date of its promulgation.

ADDENDUM <Ordinance of the Ministry of Labor No. 268, Mar. 2, 2007>

This Rule shall enter into force on March 4, 2007.

ADDENDUM <Ordinance of the Ministry of Labor No. 275, Jun. 1, 2007>

This Rule shall enter into force on June 1, 2007.

ADDENDA <Ordinance of the Ministry of Labor No. 327, Jul. 8, 2009>

Article 1 (Enforcement Date)

This Rule shall enter into force on the date of its promulgation.

Article 2 (Transitional Measures concerning Forms in Use)

Forms prepared and used pursuant to the former provisions at the time this Rule enters into force may be used continuously, but they shall apply the amended provisions.

ADDENDUM <Ordinance of the Ministry of Labor No. 342, Apr. 12, 2010>

This Rule shall enter into force the date of its promulgation.

ADDENDA <Ordinance of the Ministry of Employment and Labor No. 1, Jul. 12, 2010>

Article 1 (Enforcement Date)

This Rule shall enter into force on the date of its promulgation. (Proviso Omitted.)

Article 2 Omitted.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 29, Jul. 5, 2011>

This Rule shall enter into force on August 1, 2011.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 53, May

14, 2012>

This Rule shall enter into force on July 2, 2012.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 94, Dec. 30, 2013>

This Rule shall enter into force on January 1, 2014.

ADDENDA <Ordinance of the Ministry of Employment and Labor No. 103, Jul. 28, 2014>

Article 1 (Enforcement Date)

This Rule shall enter into force on July 29, 2014.

Article 2 (Transitional Measures concerning Reporting on Change of Employment)

Notwithstanding the amended provisions of the proviso to Article 14, reporting on grounds falling under Article 23 (1) 6 of the Decree which is made before this Rule enter into force shall be governed by the former provisions.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 109, Sep. 30, 2014>

This Rule shall enter into force on the date of its promulgation.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 117, Dec. 31, 2014>

This Rule shall enter into force on January 1, 2015.

ADDENDA <Ordinance of the Ministry of Employment and Labor No. 137, Oct. 22, 2015>

Article 1 (Enforcement Date)

This Rule shall enter into force on the date of its promulgation.

Article 2 (Applicability to Use of Standard Employment Contract)

The amended provisions of Article 8 and the amended provisions of attached Forms 6 and 6-2 shall apply beginning with the first case where a standard employment contract is concluded after this Rule enters into force.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 143, Dec. 30, 2015>

This Rule shall enter into force on the date of its promulgation.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 179, Feb. 3, 2017>

This Rule shall enter into force on the date of its promulgation.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 181, Feb. 28, 2017>

This Rule shall enter into force on May 1, 2017.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 201, Dec. 8, 2017>

This Rule shall enter into force on the date of its promulgation.

ADDENDUM <Ordinance of the Ministry of Employment and Labor No. 277, Jan. 10, 2020>

This Rule shall enter into force on the date of its promulgation.

APPENDIX D

Family reunion

“How easily can immigrants reunite with family?”

“Family reunification policies determine if and when separated families can reunite and settle in their new home.”⁵⁹

Table 6-Policy Indicators of Family reunion

- | |
|---|
| <ul style="list-style-type: none">● Residence period● Eligibility for dependent parents/grandparents and dependent adult children● Pre-entry integration requirement● Post-entry integration requirement● Economic resources● Accommodation● Duration of validity of permit● Grounds for rejection, withdrawal, refusal● Personal circumstances considered.● Right to autonomous residence permit for partners and children; |
|---|

Source: Migrant Integration Policy Index 2020⁶⁰

Education

“Are education systems responsive to the needs of immigrant children?”

⁵⁹ Solano and Huddleston, *Mipex2020 (Migrant Integration Policy Index)*.

⁶⁰ Ibid.

“Education is an increasing priority for integration, but education systems are slow to respond.”⁶¹

Table 7-Policy Indicators of Education

<ul style="list-style-type: none"> ● Access to compulsory and non-compulsory education ● Access to higher education ● Educational guidance at all levels ● Provision of support to learn language of instruction ● Measures to address educational situation of migrant groups. ● Teacher training to reflect migrants ‘learning needs. ● School curriculum to reflect diversity ● Measures to bring migrants into the teacher workforce <p>Teacher training to reflect diversity</p>

Source: Migrant Integration Policy Index 2020⁶²

Permanent Residence

“How easily can immigrants become permanent residents?”

“The security of permanent residence may be a fundamental step on the path to full citizenship and better integration outcomes. Most immigrants are long enough settled to apply—and most have in many major, longstanding and new destinations.”⁶³

Table 8-Policy Indicators of Permanent Residence

<ul style="list-style-type: none"> ● Residence period. ● LTR Language requirement. ● Economic resources. ● Duration of validity of permit. ● Renewable permit. ● Periods of absence allowed. <p>Access to social security and assistance;</p>

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

Source: Migrant Integration Policy Index 2020⁶⁴

Political participation

“Are immigrants granted the right and opportunity to participate in political life?”

“In most countries, foreign citizens are not enfranchised or regularly informed, consulted or involved in local civil society and public life.”⁶⁵

Table 9-Policy Indicators of Political participation

- | |
|---|
| <ul style="list-style-type: none">● Right to vote and stand in national and local elections.● Membership in political parties.● Strength of national consultative body.● Active information policy. Public funding/support for national immigrant bodies |
|---|

Source: Migrant Integration Policy Index 2020⁶⁶

Access to nationality

“How easily can immigrants become citizens?”

“Facilitating access to nationality can significantly increase naturalization rates and boost integration outcomes.”⁶⁷

Table 10-Policy Indicators of Access to nationality

- | |
|---|
| <ul style="list-style-type: none">● Residence period.● Citizenship for immigrant children (birthright and socialization).● Naturalization language requirement.● Naturalization integration requirement.● Economic resources.● Criminal record.● Dual nationality for first generation; |
|---|

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

Source: Migrant Integration Policy Index 2020⁶⁸

Anti-discrimination

“Is everyone effectively protected from racial/ethnic, religious, and nationality discrimination in all areas of life?”

“First came reform; now is the time for enforcement. Although anti-discrimination laws are becoming increasingly widespread, weak equality policies and bodies mean that victims of discrimination are often too poorly informed or supported to take the first step in the long path to justice. Most do not report their experience to the authorities.”⁶⁹

Table 11-Policy indicators of Anti-discrimination

- | |
|--|
| <ul style="list-style-type: none">● Law covers direct/indirect discrimination, harassment, instruction● Employment & vocational training● Education● Social protection● Access to and supply of public goods and services, including housing● Enforcement mechanisms● Mandate of specialized equality body - grounds● Mandate of specialized equality body - powers● Law covers positive action measures |
|--|

Source: Migrant Integration Policy Index 2020⁷⁰

Health

“Is the health system responsive to immigrants’ needs?”

“Major differences emerge in immigrants’ healthcare coverage and ability to access

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

*services between countries; Policies often fail to take their specific health needs into account.*⁷¹

Table 12-Policy Indicators of Health

<ul style="list-style-type: none">● Health entitlements for legal migrants● Health entitlements for asylum-seekers● Health entitlements for undocumented migrants● Administrative discretion and documentation for legal migrants● Administrative discretion and documentation for asylum-seekers● Administrative discretion and documentation for undocumented migrants.● Information for migrants concerning entitlements and use of health services.● Information for migrants concerning health education and promotion● Availability of qualified interpretation services● Involvement of migrants in information provision, service design and delivery.● Support for research on migrant health <p>Whole organization approach;</p>
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Source: Migrant Integration Policy Index 2020⁷²

⁷¹ Ibid.

⁷² Ibid.