

# **Political Economy of Labour Immigration in Republic of Korea, 1991-2008**

*Dissertation submitted to Jawaharlal Nehru University*

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*for the award of the degree*

**MASTER OF PHILOSOPHY**

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DECLARATION

I hereby declare that this dissertation entitled “**Political Economy of Labour Immigration in Republic of Korea, 1991-2008**”, submitted by me in partial fulfilment of requirements for the award of the degree of Master of Philosophy of **Jawaharlal Nehru University** is my own work. The dissertation has not been submitted for any other degree of this University or any other University.

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CERTIFICATE

We recommended that this dissertation be placed before the examiners for evaluation.

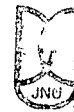
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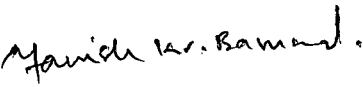
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***Chapter-1-Introduction:***  
***Political Economy of Labour Immigration***  
***in Republic of Korea, 1991-2008***

After the recent recession most of the industrialised countries have used protectionist measures to protect and create jobs for local. This was resulted in strict immigration laws. Most of low skilled workers of third world countries are most affected by these measures. These new political economic changes, observed throughout the world, have attracted the attention of scholars to understand immigration and immigration policy of governments once again. Korea, which is one of the newly industrialised countries of world, is not exception to this general trend. In the last 12 years, it has faced two recessions but its policy of immigration has shown unique pattern. It has protected the interest of its native labour but at the same time changed its policy to bring more foreign labours. Starting from 1991, when they permitted foreign labour first time by allowing them as a foreign trainee to basic plan for immigration policy - 2008 issued by Korean immigration service, ministry of Justice in June 2009, it has shown dramatic changes. Reflection of political economic changes of Korea on immigration policy is focus of the study.

### **1.1 Introduction**

Prior to its industrialisation, Korea was one of the labour exporting countries of the world but its rapid industrialisation in the decades of 1980s and 1990s transformed not only its economic structure but social as well. Steep rise in income and employment opportunities at home led to reverse immigration of its early migrant ethnic people and migration from rural areas to urban. With high employment rate and good salary, Koreans were no longer interested in jobs considered to be dangerous, dirty, difficult, demanding and distant (5-D). This created labour shortage in the sectors where wages were less; works were difficult, dangerous and dirty. These sectors were mainly Small and Medium Enterprises involved in manufacturing, construction, fishing, service, farmers and domestic help. These sectors are directly linked to day to day life of Korean people. Sharp increase in wages of workers in

these sectors could cause increase in the living cost of Korean people. However, unwillingness of Korean people to do these jobs resulted in the shortage of low skilled labour.

Labourers of other Asian countries with labour surplus found new opportunities and destination in Korea. However, most of them were illegal as Korean government did not permit unskilled foreign labour. Persistent shortage in labour market in 5-D jobs which were mainly in agriculture, textile, garment, leather, SMEs and the construction sectors, shortage of labour, appreciation of the local currency *Won* and rising domestic wages became main “pull” factors for foreign labour in the late 1980s. These foreign labourers were mainly ‘needed but unwelcome’ due to prevailing immigration law, which did not permit immigration of labour. Most of the foreign workers in Korea remained undocumented and illegal. They enter in Korea on tourist visas or through illegal channels and often overstayed.

Korean immigration law only permits foreigners to work in journalism, technology transfer, business, capital investment, education and research, entertainment, and employment recommended by the government ministry (Abella and Park, 1995). Despite prohibition to other foreign workers, the number of illegal and undocumented workers reached almost 100,000 in 1992. To restrict these illegal immigrants and fulfil the labour shortage in above mentioned sectors Korean government permitted some domestic manufacturers in 1991 to bring their foreign employees working in overseas operations or subsidiaries for training. However, they were permitted for maximum one year and had to return back after completion of training program. This was first time when Korean government officially permitted labour immigration. However, strict regulations on the number, duration and type of domestic manufacturers could not fill the burgeoning shortage of labour. According to data the number of foreign trainees brought through this program by Korean companies was 8,539 as on January 31, 1996.<sup>1</sup> To control the illegal and undocumented foreign workers Korean government offered amnesty to all undocumented foreign workers in June, 1992. Out of 68,000 overstayed undocumented workers some 61,126 foreigners were registered. Initially permitting them to legally stay up to December 2002 and again extended their stay period for another six months. This extension was further extended two times each for six

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<sup>1</sup> <http://www.unesco.org/most/apmrnw12.htm>



month for the 9,145 remaining workers. Of the 61,126 foreign workers who reported to the authorities in June 1992 some 22, 035 were of Chinese nationality, 18,983 were Filipinos, 8,950 were Bangladeshis, 5,036 were Nepalese and 6,112 were of several other nationalities.

This was the period when Korea was politically transforming from authoritarian rule where presidents having military background to pure civilian background. Leaders starting from Park Chung-hee (1961-79) to Roh Tae-woo (1988-93) all had military background. First pure civilian government came in power in 1993 and then several left oriented government like Kim Dae jung (1998-2003) and Roh Moo-hyun (2003-08) came in power. Leader like Roh Moo-hyun who has started his political career as a human right activist had left great influence on the labour and immigration policies of Korea. This was political change Korea observed during this period. Korea also observed the economic change from earlier policy of closed economy to globalisation and restricted or no labour activism to strong labour union and vibrant civilian movement for human rights. These all changes bring significant impression on Korean people and government. Korean government changed policy of foreign labour was also reflected on its 2003 policy of labour trainee system. Korea initiated it to full fill the shortage of labour unfulfilled by earlier policy.

Korea to fulfil its labour shortage broadens its immigration policy in 1993 despite opposition from the Ministry of Labor, the Ministry of Justice and trade Unions. They feared that foreign workers could depress working conditions of Korean workers and displace marginal workers. Continuous pressure from business sectors and support of the Ministry of Trade, Industry and Resources resulted into Industrial Trainee System in 1991.

Industrial Trainee System was only a broader form of earlier foreigners trainee system intended to cope labour shortage in SMEs at very little social and economic cost. This program provided small establishments in selected industries considered by authorities essential for sustained economic development and to keep these industries competitive in international market. Initially allowed for 10,000 trainees, it reached to 80,000 in few years. These trainee were not considered as workers and thus were not entitled for any labour right. Originally trainees were allowed to stay for one year as a trainee and later it was changed to 2 years. Sharp rise in labour shortage in other industries like textile, footwear and seashore fishery resulted in huge demand of labour. However, according to one estimate, the

immediate shortages of labour in these industries were 86,000 as against permitted quota of 80,000.

However, despite persistent shortage of labours, many other industries not permitted to employ foreign labour were remains unfulfilled. Korean government strictly restricted the free inflow of foreign labours. Korean government always keeps jobs available and to be filled by native when required and on the other side gives indirect incentives to foreign immigrants to overstay or to work illegally. Illegal working made them earn more but it gives owners reason to exploit them. Illegal status of these immigrants gave clear escape to owners as well as government any social and legal responsibilities. These illegal immigrants could not be united and demand for any better payments or social security. In the case, if all these labour shortages fulfilled by legal immigrants they could become a negotiating block despite their short term permitted stay in Korea.

The foreign trainee system for manufacturing sector was managed by Korea International Training Cooperation Corps (KITCO) under the Korea Federation of Small Business (KFSB). Initially they brought foreign trainee through a somewhat closed procedure without much government interference in 1992. When the system was expanded in the form of Industrial Trainee System in 1993 some guiding rules were set up by KITCO regarding qualifications of foreign labour: (1) the company should belong to small manufacturing business sectors whose labour shortage rate is above % per cent (food, tobacco, and printing were excluded before 1996); (2) the company should have operated for one (three before 1995; tow before 1996) or more years; (3) the number of permanent employees should be between 5 (9 before 1996) and 301 excluding the footwear sector; (4) the company should be registered with Ministry of Trade, Industry and Energy; and (5) the company should have accommodation facilities. Beside this, companies located in industrial complexes or non-Seoul areas, companies recommended as promising small business, members of KFSB, and companies which export more than 50 per cent of their turnover, were given some advantages. The maximum number of foreign trainees per firm was 10 per cent of the workforce with the limit of 20 trainees.

In 1994, KITCO added additional requirements for foreign labour and companies. However, in this industrial training system, whole control and regulation was under KITCO and government has very little role to play. Foreign trainees were now covered by a government

run industrial accident insurance and a medical insurance on equal terms with Korean workers. Absence of legal and social security for trainee and their wage difference with trained but illegal and undocumented workers gives incentive to trainee to become illegal.

Foreign Trainee System and Industrial Trainee System both were based on the principle to reduce the labour shortage in some industries. It was made to bring low cost labour to fulfil the labour shortage and to give Korean SMEs a competitive edge over their rivals in international market. Beside this, rotation system was induced in it to prevent permanent settlement of immigrants. These systems do not recognized foreign trainee as workers and thus does not guaranteed basic labour rights. Their unprotected legal status resulted in humanitarian discrimination of workers at work site and became centre of criticism from NGOs and other human rights groups at domestic and International level. This causes not only some diplomatic problems for Korean government but was criticized as a “System of Modern Slavery” by Joint Committee for Migrant Workers in Korea (JCMK). Since 1995 Ministry of labor and some NGOs tried to introduce new immigration and labour law based on equality and guaranteeing equality among all domestic and foreign labours, it could not succeed. Finally in 2003 new immigration and labour law came into effect which was known as Employment permit System (EPS).

Problems created due to the earlier immigration and foreign labour policies resulted in increase of undocumented workers. At the end of 2002 they made up almost 80% of all the migrant workers in Korea. EPS system was introduced to solve the short comings of earlier system and to give more equality vis-à-vis domestic labours. These inequalities were affecting the Image of Korea in other countries. Korea was also facing new challenges on its social front. Korea was rapidly becoming aging society and low birth rate increases its challenges to maintain its labour force to sustain its economic development for long time. Beside this, swift migration from rural areas to urban also resulted in shortage of not only farm workers but marriageable bride also. These cause future concerns for policy makers. To fulfil these shortages Korea was largely depends on foreign labour brides from third world countries. Korea’s immigration policy since introducing EPS system in 2003 has seen dramatic change.

EPS system was introduced in 2003 to give and protect the human and labour rights to all immigrants and to substitute legal workers for undocumented workers. This allows

businesses which earlier failed to recruit legal migrant workers. However, under the pressure of SMEs, ITTS system was also retained and both works in tandem. The EPS also grants amnesty to undocumented workers who have resided in Korea for less than 4 years previous to March 31, 2003 or forced deportation. The Foreign Workers Act which came into force on August 17, 2004 including agreements on the Memorandum of Understanding (MOU) with sending countries, granting amnesty to some undocumented workers, recommending others return to their home countries, and arresting and deporting those who refuse voluntary return.

The EPS was implemented on the basis of three principles. The first was “Principle of priority of native employment” or “Principle of complementing the labour market”. This means that only businesses that are unable to recruit Korean workers are allowed to recruit and hire migrants. The idea is to prevent deterioration of wages and working conditions, and a decrease in job opportunities for native workers. This principle would not be discriminatory against non-Koreans since it’s applied prior to migrant workers entering Korea. Through the Employment Security Center (ESC), the Ministry of Labor confirms labour shortages for those employers who have made at least one month’s effort to find domestic workers, and subsequently recommends workers from a list of foreign job-seekers.

The second principle was “avoid disruption to industrial restructuring”. The introduction of foreign labour should not disrupt the development of the Korean economy and industry. If a majority of businesses rely too heavily on low wages and unskilled workers from abroad, structural upgrades can be delayed, which can in turn have an adverse impact on the competitiveness of domestic industry. Therefore, strict industry controls and a limit on the number of migrant workers should help strengthen the competitiveness of domestic industry and also widen long term job opportunities for domestic workers.

The Foreign Workers Act states that the receiving industries and number of migrant workers under the EPS are to be regulated by the Migrant Workforce Policy Committee (FWPC), and adjusted every year, taking into account trends in demand and the supply from sending nations. Migrant workers are allowed to work for the following businesses: manufacturing, construction, agriculture and livestock, offshore and coastal fishing, and services including restaurant, business support, social welfare, cleaning, nursing, and

housekeeping. The inflow of migrant workers is to be determined at an appropriate level, which should minimize the effect on the job market for native workers.

EPS system was however more human than before as it protected the labourers through the Minimum Wages Act and the Industrial Accidents Compensation Insurance Act. It also provided legal status of some undocumented workers on case by case basis. This all increased the percentage of documented labours. However, this policy has still some flaws and do not comply International norms on labour right like choice in change in work place, reunion with family members, forced deportation, failure of government institutions to address the grievances of foreign labours.

The Korea government accepts migrant workers to solve the problem of labour shortages but not as settlers or immigrants, only as sojourners who provide labour for a limited period and then depart. The strong feeling of a “one blood” nation is still kept by Korean government and protected by foreign settlers. However, new social developments in Korean society, especially rate of international marriages which is more than 10 per cent of total marriage since last 6 years resulted in multicultural family and biracial children in rural areas. Rise in International marriage, which is almost half of total marriage in rural areas, aging of Korean society and low birth rate have helped in weakening the “one blood” nationalism in Korea. Korea’s new Immigration policy known as “The First Basic Plan for Immigration Policy, 2008-12” is focusing on creating “pull” factors for skilled immigrants and all other benefit enjoyed by ethnic Korean citizen. New policy is more focused on social, political and economic integration of foreign legal immigrants including skilled and non skilled workers to cope the social challenges raised due to gradual decrease in working force.

## **1.2 Literature Review**

Korean Immigration policy was in response to globalization, economic competitiveness, aging society and low birth rate and migration from rural to urban areas which cumulatively caused severe labour shortage. Embedded demand for foreign labour which compounded by these factors led Korean government to permit foreign workers.

Lie, John in his book *“Han Unbound: The Political Economy of South Korea”* has given detail account of political economy of Korea during different presidency and factors that supported or opposed these political economic changes. He has explained how after death of Park Chung-hee Korean middle class, industrial and farm labour started pro democracy movement and their rights and how in later half of 1990s middle class of Korea became reason for “democratic welfare state” and liberal economy.

Cornelius, Wayne A. in his edited book *“Controlling Immigration: A Global Perspective”* provides a systematic, comparative study of immigration policy and its outcomes in industrialised democracies. Examining the case study of different industrialised countries including South Korea, authors address why certain immigration control measures were selected and why these measures usually failed to achieve their stated objectives. Dividing book in three categories namely countries of immigration (US, Canada, and Australia), Reluctant countries of immigration (France, Germany, Netherlands, and Britain), and latecomers to Immigration (Italy, Spain, Japan and South Korea) authors argues that how different countries formulated their policies to restrict immigrants through best suited policies for its economy and society, especially in the case of late comers. However, in this book author has not explained the specific economic interest vis-à-vis immigration.

In the book *“The Economics of Immigration: Theory and Policy”*, Berg and Bodvarsson described different theories and policy response of countries towards the immigration. Their economic aspects and different “Push, Pull, Stay and Stay away” factors that determines the cost of immigration involved for immigrants, source and destination countries. Through this book authors have give economic aspects by giving details of fiscal costs and benefits of unauthorized immigration. Authors argue that popular belief that unauthorised immigrants are burden on local, state and national governments is not true and considering the different benefit involved like their presence increased the gross state product which in turn, increased property taxes, sales taxes, fee for services, etc and reduced living cost of citizen resulted in the net gain for the state. Absence of access to many government services and program to illegal immigrants actually do not increased the government cost. However, these theories reflect the western pattern of immigration and do not answer the economic aspect of immigration in newly industrialised Asian country like Korea. Thus, it has failed in political explanation of immigration.

Seol, Dong-hoon and Skrentny, John D. in the article "*Why Is There So Little Migrant Settlement in East Asia*" described social and cultural cost involved is the main reason behind the less migrant settlement in East Asia. Comparing with migrant settlement in Europe and America author has focused on social and cultural aspects but it has lacked in analysing the social changes happened like 'marriage immigrants' which has reduced this cost.

Batog, Konrad in his article "*Immigration Policy v. Labor Policy: An Analysis of The Application of Domestic Labor Laws to Unauthorized Foreign Workers*" examine how the US, UK, Germany and South Korea dealt with issues arising out of a possible conflict between national labour policy and national immigration policy by way of enforcing domestic labour laws for unauthorized foreign workers. Author argue that Korea has enforced the equal labour law to discourage illegal immigrants but not answered why there is more illegal foreign labour than legal.

Lee, Yong Wook in article "*Evolution of Korean Foreign Labor Policies in the Global Context: toward the Politics of Societal (in)security* " critically analysed the evolution of Korean immigration policies and how political and economic factors along with social factors continuously affected in the final adaptation and implementation of any immigration law in Korea. It has also observed the gradual positive change in Korean society towards foreign workers and their rights.

### **1.3 Rationale and Scope of the Study**

The available literature on "Political Economy of Labour Immigration in Korea" deals with different policies of government since foreign trainee system in 1991 to Employment Permit System (EPS) of 2003. They are finding the reason for increase in number of undocumented workers and policy failure to achieve the goal it was made for. Earlier immigration policies were only to cope with challenge of globalisation and give Korean companies an edge over competitors. However, domestic social challenges like aging, migration, low birth rate creates and role of different stake holders like NGOs, workers group and international organisations played a lead role in changing the immigration policy of government. Since the implementation of EPS system in 2003 social changes has been

observed. The proposed study is to examine the political economy of labour market in Korea.

#### **1.4 Statement of the Problem**

Dramatic changes in the immigration policy have been seen in Korea over the last two decades. Its immigration reform starting from foreign trainee to EPS and to the recent “first basic plan for immigration policy 2008-12” plan issued in 2008 has shown different picture. Korean dilemma to keep Korea as a homogeneous nation-state and shortage of skilled and non-skilled labour due to ageing, low birth, migration and emigration causes late reform in its immigration policy. Korean immigration policy is still not as lucrative compare to other industrial state to attract only skilled labour. Earlier discrimination to undocumented labourers and high assimilation cost involved have prevented high skilled foreigner to longer stay in Korea. In other industrial countries, illegal and undocumented immigrants make base and some homely environment which provide homeland feelings and security for skilled labours and which is absent in Korea. Basic problem lies in Korean immigration policy is its unwelcome nature towards low skilled immigrants and its failure to provide their rights by law.

#### **1.5 Objective, Research Questions, Hypotheses and Methodology**

The proposed study aim to achieve the objectives to study legal, illegal and undocumented labour and problem due to their wage differences, cost benefits involve for the Korean government due to foreign immigrants. This paper will also study that how political economic changes in Korea since 1991 to 2008 affected the immigration policies and how these policies evolved with the participation of civil societies, NGOs and other stake holders.

Research questions include the study of government response in different years in response to persistent labour shortage and how strong market force of SMEs of Korea affected the evolution of Korean immigration policy. Beside this market force who others were involved in shaping the immigration policy of Korea?



For this paper I have three hypotheses to test. These are 'Korea's changed political economic context did not get reflected in its migration policies because of SMEs', 'Despite Korea is OECD member and signatories of different UN conventions on labour and human rights its policy does not reflect it and still it protect the economic interest of its industries and ignore the basic rights of labour', Korea's vibrant NGOs, Human Rights groups and Labour unions have failed to protect the workers' right. While studying this topic I will test the above hypotheses and finally give my observation in the last chapter.

The methodology of this study would be empirical, analytical and will use the inductive and deductive method both. Korean political economic changes have greatly affected its immigration policies. So, Korean political economic changes would be treated as independent variable and immigration policies would be dependent variable. Gradual empowerment and activism of NGOs and other international human and labour rights organization would be consider as intervening variables.

The study will account the primary and secondary sources like policy papers of Korean government, reports and working papers of Korean think tanks like KDI, KEI etc, and reports of International Organisations like OECD. In addition the study will be look into secondary sources including books, journal articles, newspaper articles and internet sources.

## **1.6 Organisation of Chapters**

The study has been organized into the following chapters:

### **1. Introduction**

This paper will introduce the topic through a general background of political economic changes happened since the liberation of Korea and movement of labours in to and from the South Korea. This will also include the rationale and significance of the study, statement of the problem, hypotheses and formation of thesis.

### **2. Theoretical Framework**

This chapter starts with defining political economy, immigration, different aspects of immigration, political approach to the study of immigration, economic approach to the

study of immigration, political economic approach, some key points and purpose of the thesis.

### 3. Evolution of Korean Immigration System

This chapter introduces how Korean immigration system was evolved since its first immigration act of March, 1963 till date. This chapter will deal with labour immigration policies adopted by government time to time.

### 4. Political Economy of Korean Immigration:

This chapter examines how rapid changes in political economy of Korea affected its immigration system. This chapter will also deal the correlation between political economic changes and pattern of immigration in Korea vis-à-vis its labour market.

### 5. Immigration, NGOs and Other Stake Holders:

This chapter analyses the role played by NGOs, labour unions, international bodies and religious group in shaping the immigration, their fight for rights of foreign labour and their role in shaping immigration policy of government.

### 6. Policy Lessons and Conclusion:

This chapter pinpoints policy lessons other Asian countries could learn. Asian countries have some regional and national issues to deal with while addressing the question of immigration. Whether Korea could be a model for countries like Japan, Singapore or other, it would be discussed in this chapter.

Finally, this chapter provides summery of finding and result of the hypothesis testing.

## *Chapter 2*

### *Theoretical Framework*

#### **2.1 Introduction**

Immigration is global phenomenon of entering a country for the purpose of permanent settlement due to various reasons. These reasons, however, could be political, social, religious, ethnic, personal or economic depends on the individual choice and necessity. Immigration due to political, social, religious, ethnic reasons takes place due to internal political, social, religious, ethnic strife in home country of a person. In strife ridden countries, people prefer to migrate are mostly in numerical minority based on political ideology, language, religion, ethnicity or social standing. They prefer to immigrate some another country where they can unite on the basis of same reasons. This kind of migration and thus immigration is normally takes place en-mass and some time regarded as forced immigration. Mass immigration of Hindu religious people from Pakistan to India and Muslims to Pakistan from India or ethnic migration of Russian people from former Soviet Union states to Russia, Israel and other countries. This kind of immigration takes place due to security and uncertainty about future at home country and prospective opportunity at new destination country.

Another kind of immigration which is mostly taking place after the globalization is immigration of labour to more developed countries of Europe, Asia, North America, Australia, New Zealand, and Gulf countries etc. where economic opportunities are higher than home country of labours. They are consisting majority of over 200 million migrant peoples which are about 3 percent of the world's population (Mazur 2009). Immigration has been gradual increasing after more democratisation of globalisation. However, no unified theory of migration and immigration developed till date. In 1973, a UN team at the end of a survey concluded that the greatest challenge to migration theorists is to organise all hypothetically relevant factors into one coherent theoretical framework to guide future research (Keely 1981). This problem is still persisting but meanwhile several theories have been developed by sociologists and economists without universal dimension.

Sociologists, economists, politician and policymakers all have different views on why immigration to a particular country takes place and who immigrates to a particular country? They are also varying on their opinion about consequences on source and destination countries. However, when we study the migration of labour from one country to another, economic factors play more significant role than other social, cultural or political factors. When migration of labour takes place it is due to economic because they prefer to go a country where they can save and remit more money to their home country to uplift living standard of their family at home. However, their selection of destination country is largely decided by geographical proximity, cultural, ethnic or linguistic similarity and cost involved in comprehensive integration with host society.

Scholars of immigration issues have focused on the different determinants of immigration, what stimulate a person to immigrate leaving his or her home country and what prohibits? Their focus also consists on why people immigrate? Who immigrates? It's effect on destination country. Scholars have derived different theories of international migration or immigration to show that the cost and benefit involved determines the level of immigration. Immigration scholars have explained different factors and reasons for discouraging or encouraging immigration. It includes poverty, low wages, high unemployment, natural disaster, overpopulation, different nature of discrimination and violence, local attachment and homely feelings at home country. On the other side there is prospective high wages, employment opportunities, more security and freedom, language and cultural barrier, alien status and most important uncertainty about every aspects of life. These factors play an important role in deciding the emigration and destination of immigration. There is also cost involved in immigration like transport, visa and commission cost, lost income meanwhile, risk includes while travelling and post arrival and stay period at host country (Bodvarsson et al. 2009). These push, pull, stay and stay away factors includes life of several peoples trying to enter a country illegally. For example regular news comes from US about people dying while trying to enter US through Arizona on the U.S.-Mexico border. This was also case of Korea, where 25 Chinese immigrants died tragically when their attempt to illegally enter Korea went terribly awry. According to new reports, the Chinese immigrants suffocated while being hidden for several hours in a small storage room of a ship. These individuals had paid a large amount of money and risked their lives to secretly get into

Korea hoping that they could make money here.<sup>2</sup> Cost involved in entering a country through legal or illegal means, especially for unskilled labour is multiple times than supposed to be required. An example can be seen from the hefty commission paid by a Philippine or Chinese immigrant to pay an agent for coming South Korea. Different methods applied by these people to get employed in a country varied from getting fake visas, taking enrolment in some less known universities or taking admission in some unpopular departments. The recent news of “thousands” of immigrants from India, “mostly young men from poor villages” trying to enter US illegally through Mexico<sup>3</sup> or the recent case of California based “Sham” university where a federal complaint filed in a California court against university for helping the foreign nationals to illegally acquire immigration status with students work permit in exchange of lakhs of rupees.<sup>4</sup> Another case was of Australia where some foreign national students including Indian enrolled in low value education courses likes hairdressing and cookery<sup>5</sup>. These all examples show that whatever the means people takes to acquire visa to reach an economically more developed country. Their aim is to earn money through part time or full time jobs and settle there if possible.

Explaining all these costs, Clark, Hatton, and Williamson (2007) have explained four types of cost involved in migration of a person which includes

1. Individual-specific migration cost which is directly proportional to feeling of alienation in destination country,
2. Direct cost which includes the monetary cost involved while immigrating like visa procedural cost and transportation and this cost is may be same for emigrants from same country but different for emigrants of different countries,
3. Migration costs that results from quantitative restrictions on immigration and
4. Migration costs resulting from “skill selective” immigration policy (Clark et al.: 2002).

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<sup>2</sup> Nyon, Kim won (2001), ‘Illegal Immigrants on the Risk’, *The Munhwa Ilbo*, 15-10-2001

<sup>3</sup> <http://economictimes.indiatimes.com/news/news-by-industry/services/travel/visa-power/thousands-of-indians-entering-us-illegally-from-mexico-report/articleshow/7436641.cms>

<sup>4</sup> <http://www.deccanherald.com/content/132998/indian-students-duped-us-varsity.html>

<sup>5</sup> <http://www.ndtv.com/news/world/oz-new-migration-lists-removes-hairdressing-and-cookery-25947.php>

## **2.2 Immigration and Destination Country**

Immigration affects the economy of host country in different ways. This affect is varies to the different component of economy like labour force, capital owner and overall economy. Effects of immigration on host economy can be analysed in two ways. first at macroeconomic level and second at microeconomic level. Macro effects are analysed by the “Immigration surplus” which is normally positive but not very significant. The micro effects are rather more significant vis-a-vis affected people. Micro studies of immigration have focused on the distributional effects. Micro level analysis which analyse the effect of immigration on native uses the data of production function, number of goods produced, local immigrant consumption, native migration and the time frame. Affect of immigration at micro level is major issue of contention among politicians, business owners and consumer. At macro level business owners are ultimate winner due to rise in production and consumption by immigrants. However, at micro level native competitor of immigrants seems to be adversely affected.

### **2.2.1 Macro Effect of Immigration**

Immigration has considerable impact on economy of destination country. Indeed it creates significant economic benefits for the destination countries but scholars and domestic stake holders including those people who are directly affecting by this has different shades of opinion. Government, business groups and many others analysing the effect of immigration on production and GDP appreciate the immigration. British Home Secretary, Jacqui Smith MP on December 5, 2007 at London School of Economics and Political Science and Immigration Minister, Liam Byne MP on November 27, 2007 argue in favour of immigration. Liam Byrne MP argues that immigration has positively impacted the economy of UK by about £6 billion.<sup>6</sup> Even Trades Union Congress (TUC) of Britain gives positive assessment on immigration saying that

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<sup>6</sup> The Economic Impact of Immigration, House of Lords, Select committee on Economic Affairs, 1<sup>st</sup> Report of Session 2007-08, pp. 22

*“Overall, Immigration has been good for this country. We have more jobs, higher wages, better services and lower taxes than we would have had without immigration...it is important not to overstate these benefits...but it is not negligible either”<sup>7</sup>*

Immigration in Western countries where it is rather old and accepted phenomenon in more heterogeneous society has yielded positive impact on economy. Indeed it has economic benefited more to the immigrants rather than residents of ‘destination’ countries. Immigrants get opportunity to employ in a higher income country which enables them to economically and socially uplift in their home country.

In the analysis of the macro effect of immigration, labour, capital and their ownership play determining role. Standard model uses to analyse the macro effect is “homogeneous labor with fixed capital”. This model is applied to a capitalist country where capital is fixed and native owned, where a given numbers of immigrants moves in and perfectly substitute the native workers. Labour and capital work as a input factor for the output of production. Increase in labour factor i-e input leads to increase in output factors i-e production and greater competition among labours due to increase in their numbers also leads to decrease in average wages. Increased labour forces are not only increases the production but consumption also and this leads to increase in the profit of owners of capital and thus GDP and national income. So, macro effect of immigration is largely in favour of capital owners as they are now paying fewer wages than earlier and maximising their profit through increased production.

### **2.2.2 Micro effects of Immigration**

Macro effect of immigration indeed has increased the GDP thus national income of country and reduced the input cost of production but it has largely benefited the capital owner. Consumer now paying little less than previously but main issue is who is getting more and who is getting least benefit due to this?

**The distributional effects of immigration explained the micro effect of immigration and how native workers are affected. It is observed that in the macro effect of**

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<sup>7</sup> Ibid 4

**immigration capital owners are benefited due to low input cost which was arises due to lowering of wages and increase in production. However, wages decrease for low skilled native workers due to influx of foreign immigrants but it does not threat much to employment of native workers. Native workers in overall term are positioned in better situation than foreign immigrants as they come under various social and national security-guarantees act of government.**

George E. Johnson in his “Johnson Model (1980)” quoted Melvin Reder saying that immigrants directly competes with the domestic market and this results in increased unemployment, lower wages, or a reduction in the labour-force participation rate of the domestic low skilled population. Johnson in his model analyses the distributional effects of immigration of low skilled labours to all segments of labour force, skilled and unskilled and shown the redistribution of gross earnings due to immigration. He has shown that some amount of gross earnings “transfer from domestic low skilled workers to immigrants and to other factors of production”. It also explains that if increase in unskilled or low skilled work forces resulted in the unemployment of domestic labours, it would offset the gains of upper classes due to progressive tax system(Johnson: 1980).<sup>8</sup> However, he observed that net gain or loss by upper or lower strata of society is somewhat complementary and substitute each other. So, affected stake holders including low skilled labour groups and high earning groups support or oppose any new influx of immigration according to their net income and gross earning affected by this.

However, due to rise in immigration, GDP of country and national income increases and government promote immigration until it does not face any kind of social threat and economic burden. For example, in case of Australia, Immigration Minister Chris Evans in May, 2008 advocates in favor of immigration and to boost their numbers and to promote both kind skilled and unskilled labour applicants.<sup>9</sup>

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<sup>8</sup> Johnson, George E., (Apr., 1980), *Industrial and Labor Relations Review*, Vol. 33, No. 3, pp 331-341.

<sup>9</sup> [www.theaustralian.com.au/news/nation/influx-of-workers-rattles-unions/story-e6frg6nf-111116377130](http://www.theaustralian.com.au/news/nation/influx-of-workers-rattles-unions/story-e6frg6nf-111116377130)



### **2.2.3 Economic Growth and Immigration**

Domestic labours and their unions also do not actively oppose the immigration until it does not affect their employment and salary. In the case of most of developed country, minimum wages are so high and unskilled or semi skilled labours comprising a large number of immigrants, they know their value as well. Domestic labours unwillingness in working hard and dirty work with “non-dignified” wages comparing to Per Capita Income and living standard of host country gives an opportunities to workers from poor and developing country to get a job with “good” salary. Difference in living standard and Per Capita Income of destination and source country pulls the immigrants. Native workers willingness and desire to compete with their compatriot motivates them to increase their skills with higher education, high productivity and high salary. Immigrants are indirectly creating better high profile jobs for native. This was also observed in the case of Korea. Korean people once migrated to construction and petroleum sectors of gulf countries in the post liberation era came back in industrialised Korea. Even so many ethnic Korea living in CIS or China came to work in Korea but they all including reverse migrants from Gulf countries never possessed threat to Korean employment sector. Their return from Gulf countries did not resulted in rise in unemployment or fall of wages. In fact it increased the competitiveness among Korean people to move high tech industries.

Today movement of capital is move visible than movement of labour. Capital is following labour and earlier practice of labour following the capital has been drastically changed. So, today government and other stake holders like labour unions’ focus is creating more jobs at home through policies more suitable to immigrants willing for temporary settlement. Practice of thinking immigrants as social and economic burden is gradually changed and even recent recession we did not see anti-immigrants drive in developed countries and saw only restricted immigration. Total capital owner are looking for countries having cheap labour and availability of cheap labour does not only brings investment but also creates high profile-good salaried jobs for elite class. So, focus of old industrial nations are to keep cheap labours i-e immigrants to retain the capital and hence jobs for natives. So, immigrants are not seen as economic burden but opportunities. These changes are well reflected in immigration policies of different nations like Australia, South Korea, and USA etc.

## **2.2.4 Society and Immigration**

Immigration of labour takes place due to economic reason but there are so many other factors like social, political, religious, ethnicity that play important role in immigration especially in the selection of country of destination. Immigrants not only have to seek job and better opportunity but have to adjust with local environment and society. This adjustment is however, easy in a multi-ethnic society or where foreign labours have already settled. In a multi ethnic and cultural society or where a substantial number of foreign labour presents, sense of alienation is lesser than a society more homogeneous and ethnic in nature. In an ethnic society or culture level of acceptance by foreign labour and local society is very low and their assimilation is very difficult. For example assimilation cost and level of acceptance of foreign workers in USA and South Korea or Japan will be different because USA is said to be country of immigration and multiracial whereas Korea and Japan an uni-racial nation.

In uni-racial country nationalism, class, cultural and ethnic superiority is higher and these all play significant role in the acceptance of foreign labours. Their superiority feeling about their class, culture and ethnicity makes them believe that all immigrants are lower class and poor people, less cultured and inferior ethnicity.

## **2.2.5 Class Superiority and Immigrants**

Feeling of class superiority is more visible in a country of fewer immigrants. Countries like USA and other European states where immigration and migration is a very old phenomenon and largely have been accepted have less practice of economic exploitation based on race. However, countries which have emerged as newly industrial nations in the post World War II and still practicing the class system and foreign workers are most vulnerable to exploitation. Practiced class system for long time and till few years back and trying to compete with early industrialised nations like USA and European states creates the feeling of different classes in the world. They tend to divide people in different categories considering themselves middle class and every non-USA-European as a lower than them. This all reflected in their behaviour to foreign immigrants with whom they do not practice

equality as par they are enjoying but show sense of pity. This is also reflected in the NGOs or other human rights group working for the local and foreign workers.

## 2.2.6 Cultural Superiority and Immigrants

Homogeneous nature of population gives the feelings of something unique and different than others and most of time it creates the feelings of superiority than others. This kind of feelings of cultural superiority and civilisational advancement is always seen against foreign people of different social and cultural background. This kind of feelings creates hierarchy of civilization and culture. “Fukuzawa Yukichi, the greatest social thinker of modern Japan, delineated a hierarchy of civilizations in his widely disseminated publications. In his view, European countries and the United States are civilized (*Bunmeikoku*); Turkey, China, Japan, and some other countries are semi-civilized (*hankai no kuni*); and Australia and Africa are savage (*yaban no kuni*) (Fukuzawa 1931:24)”<sup>10</sup>

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The superiority concept of United States and European nations developed due to their prolonged colonial rule and military might shown on Asian and African countries. New industrial and developed states like Korea and Japan and other developing states of other parts of world try to emulate USA and Western countries and to prove them as middle class i-e just below to them. Their ramification resulted in belief that rest of others are below to them and hence inferior in cultural and civilisational aspects. So, even though they accept them as a immigrant labour but permit them for temporary settlement. Their resistance to permanent settlement is reflected in their behaviour like keeping foreign workers in isolation through different methods. This is the reason intercultural marriage between foreign workers and native workers is not very visible in a homogeneous nation. A sense of cultural superiority is also visible when people of their countries visited the home countries of foreign labours and their reaction to the beggars. Focus of their visit is to see the poor, hungry and dirty part of country and back to their home country they equate this experience with foreign labours.

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<sup>10</sup>Lie, John (2005), *The discourse of Japaneseness*, ed by Douglass, Mike et. Al. ed. Japan and Global Migration.



### **2.2.7 Politics and Immigration**

Immigration has always been a political issue in the modern nation-state system. With the start of electoral system of politics and clear obligation to electoral class pressed the political class to narrow their thinking according to wish of people who are electing them. Immigrants who are from an alien country having no political rights are most vulnerable to the political divide of a state. Immigrants, even though, if do not affect the job prospect and wages of native are suspect of doing this. They are also blamed for everything else miss happened. However, reaction to the immigrants is different for the different class of society. The lower strata of society who often do not interested in doing work done by immigrants still believe that their life would be better if there were no immigrants and they think them burden for nation. At the other end, people of privileged class and capital owner found them cheap labour with no limit of exploitation. Reports of misbehaving and holding of salary is often come in the newspaper. This kind of political and social approach gives the rise of identity politics and its clash with economic interests. People of nationalistic feelings often oppose the immigrants saying that they use our all facilities made for us and remit the money back home. They argue that people of foreign origin and having dual citizenship are threat to our national identity and it will weaken the cultural identity of a person.

So, political class has to restrain the emergence of any antagonistic sentiments against immigrant labour and also has to provide cheap labour to its manufacturing sectors and industries, and domestic help to elite class. So, politics of a country with increasing number of immigrant labour is not to provide standard and social security to immigrants but balancing the preferences of different interest groups like capital owners, native labour and immigrant labour. So, politics of foreign labour is centred between who is illegal and who come through legal channels and their economic viability to the nations. Illegality of a foreign labour is accepted till he is cheap tool of production and does not make any political demand. So, politics of immigration is lies in defining the immigrants as a commodity to produce goods or giving them human rights as par with native.

### **2.3 Undocumented Immigrants**

Undocumented Immigrants are immigrants lacking proper documents while visiting a country or staying more than legally permitted period. These immigrants are big issue for formulating an immigration policy while considering economic benefit of immigration. Reason for entering or overstaying a country by immigrants is understandable but some time destination countries also indirectly and informally promote undocumented immigrants. In an industrial developed country with high GDP and per capita income, demand for low skilled temporary labour always prevail. Government never appreciates low skilled or unskilled workers to settle permanently and in continuous need of replacement of labour to keep its work force youth it promotes temporary settlement. Foreign workers with proper documents tend to settle permanently by marrying with locals or through different means. On the other side undocumented workers can be very easily deported and replaced. These undocumented workforce are cheaper than documented and do not burden much on the government. In a multiethnic society with large number of immigrants it may be difficult to check the immigrants but in the homogeneous nation like Korea and Japan it is very easy. So, why these illegal immigrants are universally present in homogeneous and heterogeneous society? Their benefit to the society and economic play significant role in keeping them undocumented

### **2.4 The Cost of Government Services for Immigration**

Immigrants, despite their contribution in GDP and industrial productivity is always criticized for their larger family and more use of public services and hence most of time considered as a burdensome on the economy. It is usual belief that they get more from the governmental social scheme than they contribute. However, scholarly articles shown that it is quite opposite. Legal immigrants often hesitate to use the public services and illegal fears to use. In a multiethnic country with significant number of immigrants it may be little bigger than natives but in a country of uni racial cultural and social divide prevent their access to these services. Beside that foreign immigrants prefer to settle where their job located or someone known person settled there. These areas are generally slum and lack basic amenities. Immigrants who are mostly youth are more productive and being live as a

temporary settler in a alien country generally do not claim government facilities despite paying his contribution to it.

## **2.5 Government of Destination Country and Immigration**

### **2.5.1 Government and Domestic Compulsions**

Democracy, globalization, capitalism, national interests, employment and GDP and growth rate of economy has been major topic since industrialisation reached in the Asia, especially after emergence of new independent nations. These countries either prefer to balance between contrasting economic policies of two pole of world i-e USSR and USA or replicated them. All their decisions were depends on their definition of national interest. It's either by their leader or people. These national interests are not limited for the employment for all and high GDP but have some socio-cultural constraints. For the case of Korea, which emerged as a industrialised, capitalist and developed country with in a very short span of time under President Park Chung hee has missed the gradual change in the structure of society. Korean society in coping with the industrial change saw quick urbanization of not only cities but thinking and approach of its people. Centralisation of population in Seoul, capital city, and other industrial area, female migration from village to cities and their high level of struggle to keep themselves up to the level of Seoul, sudden rise in salary, consciousness for the dirty, dangerous, demanding jobs and more over that comparing themselves and their country with American standard resulted in the low birth rate, lack of low skilled farm and industrial labours.

Korean perception about their historical misery during pre-colonial, colonial or post colonial period was due to their economic backwardness and this was resulted in their economic rise. Another reason for this was their national sentiments vis-à-vis Japan and other historical issues. So, their national sentiments were for high GDP of the country and its people. However, in the post Seoul Olympic-1988, nationalism, social changes due to internal migration, reduced birth rate, and shortage of low skilled labours and thus immigration of low skilled foreign labours was visible. Nationalist sentiments, national interest and gradual increase of immigrants which were needed as low skilled industrial

workers, especially for SMEs, farm and fishery sectors were became important factors for the immigration policy of government.

### **2.5.2 Government and External Compulsions**

Immigration, immigrants and their rights has always been a issue for the different labour groups, international human rights groups, UN, ILO and even OECD. These different organizations have been always maintained the minimum security and rights of foreign labours in alien countries. Korea became the UN member in 1991 and OECD member country in 1996 and subsequently it became members of different convention of UN and other organization on rights of labours. This includes even the rights of foreign labours. With these organization gradually becoming powerful and Korea trying to be member of elite class to voice for the human rights in other countries as a responsible member of different conventions and organizations needed to maintain the minimum level labour rights in their own country. International NGOs and different labour organizations and NGOs working in Korea continuously exerts pressure on the government and create more consciousness in Korea society for the rights of labours which includes foreign immigrants as well. These external pressures and more awareness about the benefit of foreign labour and their rights as human beings favourably influence the policy of government and helped in balancing the national interest and ethno-nationalism.

### **2.5.3 Case of Korea and Pull Factor Theory**

Migration and immigration is very old phenomenon of individual and group. However, different factors plays significant role in deciding the destination of migrants. There have been different push factors which become reason for people to migrate but their destination place is largely decided by whether their reason for migration is fulfilled. So, push factors play significant role for the migration and pull factors for the immigration. Push factors are reasons for why people migrates and pull factors are reasons for where people migrates. For a semi skilled or unskilled labours looks for economic reason and a person seeking political asylum or refugee looks for political reason while choosing a destination country. Scholars working on “pull factors theory” give more stress on pull factors rather than push factors. A.

M. Mayda (2005) in her article explained that “Theories that derive from neoclassical economics tend to expect wage-pull to be the major determinant of migration. Empirical research tends to reinforce that expectation finding that economic pull factors are the dominant driver and that push factors play no substantive role in migration” (The Future of International Migration to OECD Countries, OECD: 2009). Peri (2005) in his research paper also states that “wage-pull is the most important variable in migration models for OECD countries, albeit there are notable differences in the attractive power” of the traditional countries of immigration as compared with most European nations” (The Future of International Migration to OECD Countries, OECD: 2009).

These pull factors are mainly lies in the economic opportunities in the form of wages but there are so many others factors which plays significant role in attracting foreign labours.

1. Economic opportunities in the form of wages
2. Immigration Cost
3. Earlier Immigrants’ settlements
4. Immigration Cost
5. Government Policies
6. Rights Groups
7. Approach of Local People

While the first three reasons are pull factors working from inside the immigrants and motivate the people to immigrate in a certain country while other three factors are, if favourable, work as a incentives for the immigrants. For an unskilled and low skilled labourers’, looking for employment and higher wages, little suffering and unfavourable working and living conditions does not matter. So, for low and unskilled people these all works as opportunities and they tend to immigrate until government policies strictly restrict them. Hatton and Williamson explained that “while pull factors were critical in historical migrations, the role of economic pull factors may not operate when policies effectively restrict immigration” (The Future of International Migration to OECD Countries, OECD: 2009).

In the case of Korea Wage factor, Immigration policy, social and civil activisms are primary pull factors that work.



## *Chapter 3*

### *Evolution of Korean Immigration System*

#### **3.1 Introduction**

Industrialisation of different states in various decades of history, evolution of concept of nation-state and finally globalisation has been greatly affected the nature of labour migration in various parts of world and thus labour policies of different governments. In the different phases of labour, capital and market economy, policies and response of labour, capital owner and government has been changed. In the first phase i-e in the age of industrialisation labours followed the capital but in the second phase when the concept of nation-state was strong focus of government was to protect the job for citizen and later in the third phase i-e in the age of globalisation capital and industry started to follow labours. So, changes in the trend of movements of capital and labour have affected the labour and immigration policies of different governments.

Government now had to change policies to keep capital at home through FDI and cheap labour of immigrants for sustainable growth and create high salaried jobs for local people. In a capitalist country, Government's policies to create more and more jobs for native is depends on the domestic and foreign capital which could be invested to establish industries. However, these companies prefer to be located where profit friendly environment exists like cheap labour, cheap resources with higher connectivity and security from the government. However, In the high Per Capita Income countries domestic unskilled or semi-skilled workers gradually become uninterested in doing dirty, dangerous, difficult and demanding jobs in the manufacturing, agriculture, fisheries etc. Industries due to better social security rise in income, high education & consciousness. As this situation prevailed for long time, unskilled labour shortage and unemployment of high skilled labour arises simultaneously. In this system everyone seems in win-win condition in monetary term. Immigrants get better salary than home country, industries get cheaper labours which could be more exploited, government having lesser social responsibilities and people getting cheaper products and services. However, these are not the only factors in determining the immigration policies of a government vis-à-vis low and unskilled foreign labours. There are

different other factors that play significant role in the evolution of immigration policy of a government.

An elected government while making labour immigration policy has to convince and satisfy the people that why it really needs the immigrant labour, has to consider the national sentiments, social and economic reality of country. Beside this, it has to assure the people that national goal will be achieved through it without compromising the interests of state and citizens. It will also have to analyse the policy response evolved among different stake holders like different ministries of the government, industries, people, labour groups, human rights groups and different International organizations like International NGOs, UN etc.

### **3.2 Evolution of Korean Immigration System**

Immigration is a phenomenon of movements of labour from one country to another in search of better job opportunities and trends show that most of foreign labour immigrants moves from less developed countries to a more developed country. Korea is also one of the labour immigrants' countries but it is new in this field. However, it has all the pull factors which are generally required to motivate or pull foreign labours to come, work and settle permanently. It is industrialised, high GDP and per capita income, declining and ageing population, shortage of labour force in 3-D jobs and other industries, geographical proximity to less developed countries, cultural proximity to many Confucian following ASEAN nations, ancestral home of many poor *Chosun-jok* people living in China and people of Korean origin in CIS (Commonwealth of Independent states), immigration still not a political issue and on the top of that passive willingness of Korean government. These different pull factors now exists in Korea is sum up historical assets, economic and political policies implemented by Park Chung-hee and his successive leaders, rise in ethnic nationalism among Korean people, changed approach of Korean towards jobs and "race from the bottom". These pull factors resulted in the gradual rise of foreign labour in Korea.

The historical origin of foreign labours in Korea was beautifully explained by Timothy C. Lim in his article "*Foreign Migrant Workers and Civil Society in South Korea: The search for power in an era of global turbulence*" saying that

“...South Korea reached a turning point in migration due to changes in the structure of the national economy. Scholars refer to this phenomenon as the migration transition. For South Korea, the migration transition occurred in the late 1980s and is symbolized by the country's hosting of the 1988 Olympic Games. Before 1988, the only 'foreign workers' in Korea were a handful of white collar professionals, artists, and teachers. There were a virtually no 'unskilled' or 'low skilled' foreign workers in Korea's small factories, maritime sector, farms, or construction industries.<sup>11</sup>”

First major inflow<sup>12</sup> of foreign labour was visible around 1987 and after 1988 Olympic when Korean economic power was displayed world-wide and after that gradual inflow of foreign immigrants without proper documents started. These foreign labours were in high demand in some industries where domestic labours were insufficient and unavailable. Gradual inflow of undocumented foreign workers and scarcity of domestic labours in sectors like fisheries, textiles, manufacturing, agriculture and other SMEs have resulted in the full amendment of Immigration Control Act by Ministry of Legislation on Dec. 8, 1992 by Act No. 4522. The original Immigration Control Act was enacted on March 5, 1963 as Act No. 1289<sup>13</sup>.

According to Immigration Control Act, 1963, unskilled or semi-skilled foreign labours are not permitted in labour surplus Korea. Korean immigration law only permits foreigners to work in Journalism, Technology transfer, Business, Capital investment, Education and Research, Entertainment, and employment recommended by the government ministry (Abella and Park 1995). All the unskilled or semi skilled workers including domestic helps before 1992 were undocumented and regarded as illegal because they did not have proper visa documents. Another reason for considering them illegal was Korea defined itself as a country of 'no immigration' and 'no immigration' law exists. However, their number

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<sup>11</sup> Lim, Timothy C. (2003), "Foreign Migrant Workers and Civil Society in South Korea: The Search for Power in an Era of Global Turbulence", in Marjorie Griffin Cohen and Stephen McBride (eds.) *Global turbulence: social activists' and state responses to globalization*, USA: Ashgate Publishing Limited.

<sup>12</sup> There were so called 'coolies' from the Shandong province of China who were flowed into Korea from the end of the Joseon Dynasty until the Japanese colonial period. The recent migrations are the first under Immigration Control Act, Korea. Seol, Dong-hoon (), *Migrant Workers in the Midst of Reforming Foreign Labor Policy in Korea*.

<sup>13</sup> Ministry of Legislation (2002), Republic of Korea, Ministry of Legislation *Immigration Control Act*.

gradually increased from 6,409 in 1987 to 14,610 in 1989, 21,235 in 1990, and 45,449 in 1991.<sup>14</sup>

Change in economic scenario of Korea under Park Chung-hee was well reflected in the behaviour of domestic labour market. Rapid Economic development in 1970s and 80s resulted in the boom of construction and manufacturing sectors and increased wages, job security and more than that, changes in life style. Korean started to pay attention on high salaried and safe jobs. Korean labour market also gets caught in the “3-D syndrome” in late 1980s. Cho (1994:100) defined 3-D as “*a strong tendency on the part of workers to avoid difficult, dangerous, and dirty jobs.*” With the economic rise of Korea, Korean labours started to move from manufacturing sectors to electrical and electronic machinery, high paid professions, supervisory and service occupations.<sup>15</sup> The shift of labours from “3-D jobs” resulted in the shortage of labours in these jobs and then owners started to employ foreign labours. Shortages of labours which begun in 1990s was started to severely affect the production and hence profit of manufacturing, construction, fishing and other small scale industries. According to the Ministry of Labor, the shortage of labour in September 1993 in small scale manufacturing sector is around 120,220 and for the entire economy, it was almost 250,000 i-e 4 percent of production workers.<sup>16</sup>

The shortage of workers in 3-D jobs gives good prospect for foreign immigrants to work there. ‘No immigration’ policy of Korea gives reasons to both employers and workers to do it illegally. Illegal status of foreign workers made them vulnerable to exploitation from the employer. Their fear to be reported to concerned authority was badly exploited by factory owners and sometimes it reached beyond the humanitarian. Social, legal and economic insecurity were characteristics of these labours. However, due to officially non-recognition of presence of unskilled foreign labours and negligible presence of these workers, they never came in main stream news. Their presence was first reported by *The Dong-A Ilbo*, one of the major Korean daily in 1987. It reported the presence of hundreds of Filipino

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<sup>14</sup> Seoul, Dong-hoon (2000), “Past and Present of Foreign Workers in Korea 1987-2000”, *Asia Solidarity Quarterly*

<sup>15</sup> Poverty and Social Policy Department (May 1997), The World Bank, Poverty and Social Policy Department, “A Reversal of Fortune for Korean Woman: Explaining 1983’s Upward Turn in Relative Earnings” policy research working paper by Yana van der Meulen Rodgers.

<sup>16</sup> UNESCO (1997), Asia Pacific Migration Research Network (APMRN), *Working Papers Series: paper-1 issues paper from the Republic of Korea*, APMRN Secretariat: Australia.

domestic helpers in *Gangnam*, the posh area of Korea located in the south of *Han* River in Seoul<sup>17</sup>. Presence of undocumented foreign labours gradually increased year by year basis from 4217 in 1987 to 41,877 in 1991 when Korean government first time permitted foreign labours on the name of trainees.

**Table 1. Number of Migrant Workers in Korea, 1987-1991 (Persons)**

Year	Total Migrant Workers	Skilled Workers		Unskilled Workers
		Professional	Industrial & Technical Trainee	
1987	6,409	2192	0	4,217
1988	7,410	2,403	0	5,007
1989	14,610	2,474	0	12,136
1990	21,235	2,833	0	18,402
1991	45,449	2,973	599	41,877

Source: Ministry of Justice, Korea.<sup>18</sup>

### 3.3 Labour Shortage and Immigration Policy

The “3-D syndrome” which had become 5-D syndrome with inclusion of demanding and distant to dirty, difficult and dangerous jobs had resulted in the permanent shortage of native labours in manufacturing, construction, fisheries, agriculture and low wages service sectors<sup>19</sup>. This causes the reduction of production and profit, and thus employers had to hire

<sup>17</sup> Seol, Dong-hoon(2000 ), "Past and Present of Foreign Workers in Korea 1987-2000", *Asia Solidarity Quarterly*.

<sup>18</sup> *ibid*

<sup>19</sup> Only workers of China and CIS countries with ancestral origin of Korea were permitted in service sector

undocumented foreign immigrants. Their demand was seen in the quick rise of their numbers as it was 18402 in 1990 to 41877 in 1991. These foreign labour were illegal due to Korean government immigration policy and thus vulnerable to exploitation by employers. They were not paid properly and regularly, have no minimum wages fixed, no accidental compensation, legal, economic and social insecurity and were living in inhuman conditions. Their news of exploitation often comes in the news and Korean government was also criticised for their response and policy. The increase in number of illegal foreign workers and continuous demand and pressure by SMEs to permit them to legally hire foreign labour resulted in the first change in the immigration policy in 1991 and Korean government permitted some SMEs to legally bring and hire unskilled foreign workers. This policy was 'Industrial technical training program' for Korean companies having overseas investment but this policy failed to meet the demand of labour shortages and thus undocumented foreign workers increased gradually. To meet the demands of prevailing labour shortages in certain sectors and reduce the number of undocumented unskilled immigrants<sup>20</sup> Korean government changed its immigration policy several times and finally adopted the "Employment Permit System" in 2003. This was first time Korea permitted to hire foreign labours with the status of "worker" and finally ended the "Industrial trainee system" in 2006<sup>21</sup>. Industrial trainee system was adopted by it till date which does not recognize foreign workers as workers but as a trainee.

Korean labour immigration policies can be divided into

1. Industrial Technical Trainee Program (IITP-I) for overseas employees of Korean SMEs,
2. IITP-II for Korean SMEs in limited sectors,
3. Post-training Employment Program,
4. Employment Management Program and
5. Employment Permit System (EPS)

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<sup>20</sup> The number of undocumented unskilled/semiskilled labour were reached upto 289,239. This was 79.8 percent of total 362, 597 foreign labours. Source: Ministry of Justice, Government of Republic of Korea.

<sup>21</sup> Existing Industrial Trainee system of was abolished with effect from January 1, 2007. Ministry of Justice

### **3.3.1 Industrial Technical Trainee Program (ITTP-I)**

The three decades of rapid industrialisation, boom in construction and manufacturing sectors resulted into virtual complete employment of Koreans.<sup>22</sup> Despite reverse migration of Korean labours back to country, Korean unemployment rate was around two percent and this was continued till 1997 of Asian economic crisis.<sup>23</sup> Two percent unemployment rate considered as virtual full employment. So, with more job security and increased wages Korean labours started to move from 5-D jobs to high qualified jobs and this led to shortages of labour. With increased in undocumented foreign workers and persistent demand of SMEs to legally allow them to bring and hire foreign workers government finally introduced the “Industrial Technical Trainee Program” in November 1991. Korea through this program permitted to Korean companies having overseas operations to bring their employee as a trainee but not as a worker. These “trainee” were permitted to stay in Korea for 6 months which is extendable to another 6 months with explicit permission of concerned authority. However, their legal status of “trainee” and not worker does not entitled them basic labour rights enjoyed by native workers and they were not covered by social or economic security policy of government like insurance cover, industrial compensation for loss or injury or fixed minimum wages.

### **3.3.2 Industrial Technical Training Program-II**

The government policy to lessen the labour shortages through ITTP-I did not succeeded as it only benefited the Korean companies with overseas investment. It did not do much to the SMEs who were adversely most affected by the 5-D syndrome. As ministry of Labour stated the labour shortage in SMEs were amounted to 120,220 in September 1993 and

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<sup>22</sup> “During the period from 1965 to 1990 the labour force and employment grew at annual average rates of 3.1 and 3.3 percent respectively. As employment increased more rapidly than the labour force, the unemployment rate declined”. OECD (2002), *Migration and the labour market in Asia: Recent trends and policies* by Nihon R. K.

<sup>23</sup> Kang, Soon-hie et al. (2001), “Korea: Labor market outcomes and policy responses after the crisis”, in Gordon Betcherman and Rizwanul Islam (eds.) *East Asian labor markets and the economic crisis: impacts, responses and lessons*, Washington: World Bank and ILO

250,000 for the entire economy. To cope with huge labour shortage in SMEs, Korean government expanded the range of ITTP to all small and medium sized manufacturing firms having maximum 300 employees in November 1993. Any SMEs qualified for above parameters could employ foreign labours as trainee for a period of one year which is extendable for another one year if necessary. Initially this program was limited to manufacturing sectors but extended to coastal fisheries in 1996 and construction in 1997.<sup>24</sup>

The ITTP was initially meant to reduce the labours shortages and undocumented workers by allowing foreign workers legally to work but it failed to achieve its goal due to demand and supply mismatch of foreign labours. Labours shortage were very high compare to permitted number of foreign labours. Due to this gap and rules of training system it became source of undocumented labours.

### 3.3.3 ITTP, SMEs and Foreign Workers

The ITTP system resulted in the total failure and brought harsh criticism for the government. This system resulted in the severe exploitation of foreign trainee and also increased the number of undocumented labours. The trainee system which came into effect in 1992 was managed by Korea International Training Cooperation Corps (KITCO) under the Korea Federation of Small Business (KFSB).<sup>25</sup> KITCO had complete command, control and authority over the recruiting procedure through ten selected manufacturing sectors. They used it with consideration of their maximum profit and by this way they exploited the foreign trainee by making such rule which were beneficial for them. For example they had arbitrary right to select foreign recruiting agencies in the labour sending countries. They took bribes to select these recruitment companies and hence these recruitment agencies took hefty commission from the applicant labours to grant them Korean trainee visas. Out of fourteen countries selected to send their labours, KITCO selected only one recruiting company in each of eleven countries.<sup>26</sup> Monopoly of these recruiting agencies resulted in high payment of commission to get Korean Visas. In the ITTP system trainees had no right

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<sup>24</sup> Yoo, Kil Sang (Nov. 2005), "Foreign Workers in the Republic of Korea", *Korean Labor Institute, Seoul*.

<sup>25</sup> UNESCO (1997), Asia Pacific Migration Research Network (APMRN), *Working Papers Series: paper-1 issues paper from the Republic of Korea*, APMRN Secretariat: Australia.

<sup>26</sup> China, Philippines and Bangladesh has more than one recruiting company.



for job change, to make labour union, join labour union, collective demand and bargaining, minimum wages and did not come under the benefit of government run industrial accident insurance<sup>27</sup> and a medical insurance as par with native Korean workers. They were not entitled to these benefits because employers had to pay to the government on behalf of them and hence they were not recognised as labour but trainee. To keep cheap labour available for SMEs the government did not fixed the minimum allowance<sup>28</sup> and leave it on the mercy and kindness of employer despite foreign workers were doing same job as native Koreans. Most of time it was found that their allowances, working and living condition were very inferior compare to native and even undocumented workers. Allowances of trainee were differed based on their nationality and shows racial nature of practice. These brings strong criticism from domestic NGOs and other institutes and finally KITCO fixed the basic allowance of 266,420 Korean won (\$340) for all trainee in March 1994.<sup>29</sup> However, this allowance was still lower than wages of undocumented foreign workers and so they were considered inferior despite their legal status. When inhuman treatment of trainee and lower payment of allowances came in the news and public Korean government finally established the guidelines for the Protection and management of Foreign Industrial Trainees for their legal and social welfare on February 14, 1995, Industrial Accidental Compensation Insurance and National Health Insurance on March 1, 1995 and they were subjected to Minimum Wage Law since July 1, 1995.

### 3.3.4 Criticism of Trainee System

Industrial Technical Trainee Program was introduced by Korean government to cope with labour shortages. Initial aim of Korean government was to fulfill the labour shortage through temporary foreign workers by allowing them minimum duration of sojourn. It was seen in the initial stipulated trainee period which was initially for six months and could be further extended for another six months with explicit permission of concerned authority. Korean government, to keep the racial identity of Korea and jobs always available for

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<sup>27</sup> A special industrial accident insurance which was inferior to Korean workers were given to trainee after March 1995

<sup>28</sup> Foreign workers are legally trainee and not workers. So, they get wages in the form of allowances.

<sup>29</sup> UNESCO (1997), Asia Pacific Migration Research Network (APMRN), *Working Papers Series: paper-1 issues paper from the Republic of Korea*, APMRN Secretariat: Australia.

native, did not permit the long term stay of foreign workers. To keep their temporary status, they were recognised as trainee and not worker. Due to trainee status they were not entitled to basic labour rights given to Korean workers despite working as labour along with them. On the other side, these workers had paid hefty amount as a brokerage fee to come Korea and which was impossible to pay back in such short span of time. So, they prefer to change jobs as soon as they get chance to overstay and earn more. On the other side huge difference between shortage of labour and availability through ITTP was stimulate the foreign workers to come Korea on tourist or other possible visa and become undocumented labours. Korean firms also preferred to retain or employ these trainees as undocumented workers through whatever means they required because these workers were more trained, familiar to work and working conditions, well settled. For the replacement these firms had to again use their time, money and other resources to train them and again had to go all procedures after every six months or one year. Replacement of foreign employees after every six months or one year was economically not viable. It also affected the efficiency and productivity. These factors led to increase in number of undocumented labours. So, Korean government's own policy resulted in the increased number of undocumented workers.

However this ITTP was existed till 2006 and functioning together with Employment Permit System (EPS) till then and meanwhile changed to permit trainee to work 1 year with worker status after two years of training and again changed to work 2 years as worker status after 1 year of training.

### **3.3.5 Post-training Employment Program**

The failure of ITTP in coping labour shortage and to check undocumented labour, inhuman treatment and exploitation of labours by employer attract strong criticism from labour Unions, human rights activists, labour rights activists, countries of origin of labours and some international organizations. Finally government tried to bring new immigration policy in 1995 know as Employment permit system (EPS) but due to strong opposition from SMEs it was not enacted till 2003.

However, to keep the labours legally available for domestic SMEs and to prevent them becoming undocumented government in April 2000 through training-employment scheme

permitted these trainees to work as workers status for one year after completion of two years of training period if they fulfilled some certain conditions. However, Korea saw the increase of 66211 undocumented workers i-e 188,995 to 255,206 in one year. This was very high rise in one year from 66.2 percent to 77.4 percent of undocumented workers of total workers in one year i-e 2000 to 2001.<sup>30</sup>

This program was known as Post-training Employment Program and it was again amended to facilitate them to work for two years as a worker after one year of initial training through amendment of the Enforcement Decree on April 18, 2002 and the Enforcement Regulation on April 27, 2002 of the Immigration Control Act (Lee Kyu-yong 2007).<sup>31</sup> This program was finally abolished with ITTP in 2006 as it was amended program of initial IITP.

### **3.3.6 Employment Management Program (EMP)**

Employment Management Program was especially designated program to facilitate overseas Korean especially residing in CIS and China to work in service sectors which was restricted for other foreign immigrant trainee. According to this program overseas Korean with minimum age of 40 could visit their ancestral mother land to visit their relatives and work in the restaurant business, business support services, social welfare services, cleaning, nursing, and housekeeping for a period of up to 3 years as an employee. The minimum age of 40 years was reduced to 30 on May 10, 2003. With the enactment of Employment Permit System, this was included as a special part of EPS.

EMP was especially enacted to facilitate ethnic Korean to work in some better industry than other nationalities. Ethnic bonding, ancestral home and knowledge of Korean Language and Culture differentiate them not only in working sectors and work place but also at the time of issuing of Visa and other working documents. For example ethnic Koreans from China and CIS state were required only to produce travel documents to visit and work in Korea till 1997 and had no requirement of visa. On the other hand low skilled foreign workers of

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<sup>30</sup> Source: Ministry of Justice

<sup>31</sup> Lee Kyu Yong (2007), "Changes in Policies for Migrant Workers and Policy Recommendation", *Labour Review*, Korea Labor Institute.

other countries had to get D-3 visa i-e Trainee visa. When Korean government adopted post trainee working program since 1998 to 2002 ethnic Korean immigrant only need to get visa to visit Korea and other national had to get D-3 and E-8 trainee and working visa respectively. Clear differentiation between ethnic Korean immigrants and other nationals are continued till today after the implementation of Employment Permit System. After the EPS when trainee system was abolished and foreign immigrants granted the working visa then need to get E-9 employment permit visa and they were not granted residential visa. On the other side ethnic Korean immigrants get special work permit F-1-4 and E-9 visa, special work and residence permit H-2 visa which enable them to work in service sectors (Nora Hui-Jung Kim 2008)<sup>32</sup>.

### **3.3.7 Employment Permit System (EPS)**

Korea which has faced labour shortages in manufacturing, construction, fisheries, agriculture, services etc in the last decade of 20<sup>th</sup> century had seen gradual rise of undocumented labours despite restricted permission to foreign workers to work legally as trainee. Flaws of ITTP which was initially adopted was revised several times and finally gives trainees right to work as worker for two years after one year of mandatory initial training. However, these programs neither addressed the concerns of SMEs nor controlled the rise of undocumented labours. Except during Economic crisis period their numbers gradually raised and at the end of 2002 it reached up to 289,239. These undocumented foreign workers constitute 79.8 percent of total 362,597 immigrant workers. Rise of undocumented workers to such extent started to pose serious social and labour problems. Having so big foreign population having no whereabouts records to the government was matter of concern. Government had no track records of them and any bad treatment to them also bring criticism to the government from human and labour rights group at home and abroad. Some time it also became diplomatic issue between Korean and country of origin of labours. The motive of bringing ITTP was also lost its momentum because initial enthusiasm of unification of Korean peninsula after disintegration of Soviet Union and unification of Germany was weakened. Political development in Korean peninsula and especially in North Korea on nuclear issue showed that unification is distant and thus

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<sup>32</sup> Nora Hui-Jung Kim. 2008. International Migration Review. Volume 42 Number 3 (Autumn 2008):576–596

possibility of coming of North Korean cheap labour is far away. Significance of ITTP was also diluted after it was amended to permit workers to work two years with full workers right after one year of initial mandatory training. So, to cope with double challenges of fulfilling labour shortage in industries and reducing the undocumented labours, which had reached up to almost 80 percent of total labour immigrant population, resulted into the enactment of “Act Concerning the Employment Permit for Migrant Workers” in 2003. According to this act Employment Permit System for migrant workers were implemented on August 17, 2004.

By enacting and implementing this system Korean government tried to solve some major concerns of foreign labours like their exploitation by recruiting agents as well as by employers, giving them basic labour rights as par as native workers and protecting their human rights. To achieve these goals Korean government changed the policy of recruiting of foreign labour through KITCO and recruiting agents and new recruitments started by government agency themselves by signing MOU with government of eight selected labour sending countries<sup>33</sup> and Korea. The MOU signed with these countries were subject to revision for every two years depending upon policy and requirements of industries. After implementing the EPS government ended all previous immigration and employment rules which included post training employment. According to this act all legal foreign workers were equal to native workers. However, they were permitted to work only for one year which maximum extension of two more years (Yoo et al. 2003)<sup>34</sup>.

Through this system Korean government tried to regulate the flow of foreign workers (Kim 2005). Employment management program became a part of it and it was still reserved for ethnic Korean people having Korean ancestor. However, government regulated all the aspects related to recruitment, working sectors; industry and country wise workers quota on annual basis by Foreign Workers Policy Commission under the chairmanship of the Ministry of Government Policy Coordination.<sup>35</sup>

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<sup>33</sup> These countries were China, Mongolia, Philippines, Vietnam, Indonesia, Thailand, Sri Lanka, and Kazakhstan.

<sup>34</sup> Yoo, Kil sang et al. (2003), *Labor Market Analysis on Low-skilled Migrant Workers in Korea (in Korean)*, Korea Labor Institute: Korea.

<sup>35</sup> Ibid 14

Table 2: Annual Quota of Employment permits for unskilled foreign workers, 2008

Ethnicity / Sector	Manufacturing	Construction	Service	Agriculture / Live stock	Fishery	Total
Ethnic Korean Labour	16000	12000	30600	1000	400	60,000
Non-ethnic Korean Labour	60800	6000	400 <sup>36</sup>	4000	800	72,000
Total	76800	18000	31000	5000	1200	1,32,000 <sup>37</sup>

Source: Ministry of Labor, Republic of Korea (2008)

Korean government tried to protect the labour rights of foreign workers through this policy and it also helped them to keep these new labour properly documented. On the other side issue of undocumented work force was also addressed by offering them to renew their visa if they qualified the terms and condition adopted by the government. Foreign undocumented workers especially south East Asian, ethnic Korean and Chinese labour took benefit of this amnesty offer and more than 90 percent of total undocumented labours legalized. This was resulted in the sharp fall of undocumented workers from 79.8 percent to 35.3 percent in 2003.<sup>38</sup>

<sup>36</sup> 200 labours were permitted for tourist hotels that require English proficiency; the remaining 200 were for the manufacturing related service industries, including warehousing and steel recycling.

<sup>37</sup> In 2006 and 2007 almost 100,000 workers were permitted through EPS. Source: Korea's changing roles in southeast asia: Expanding influence and relations by David I. Steinberg, ed.

<sup>38</sup> Ministry of Justice

Table 3: Number of foreign worker entered Korea on EPS visa till 30 Apr 2008  
(unit:Person)

Country	2004	2005	2006	2007	2008	Total	Unauthorised Leave
Total	3,176	31,659	28,976	33,687	14,415	1,11,904	3,741
Vietnam	704	8,619	5,712	11,507	3,126	29,668	553
Philippines	832	5,308	8,434	5,928	1,209	21,711	357
Thailand	558	5,964	6,746	5,798	2,838	21,904	1,141
Mongolia	500	4,433	4,703	2,642	1,748	14,026	1,079
Indonesia	359	4,361	1,215	4,343	1,713	11,991	467
Sri Lanka	214	2,974	2,166	2,194	1,101	8,649	123
Others	-	-	-	1,275	2,680	3,955	21

Source: Ministry of Labor, Republic of Korea, Various Years.

Table 4: Number of low skilled foreign workers in Korea since 1987 to 2008 (Unit: Person)

Year/	Total	Employment Visa	Training Visa	Undocumented workers <sup>39</sup> (%)
1987	6,409	NA	NA	4,217
1988	7,410	NA	NA	5,007
1989	14,610	NA	NA	12,136
1990	21,235	NA	NA	18,402
1991	45,449	NA	599	41,877 (92.1)
1992	73,868	NA	4945	65,528 (88.7)
1993 <sup>40</sup>	66,323	NA	8648	54,508 (82.2)
1994	81,824	5,265	28,328	48,231 (58.9)
1995	128,906	8,228	38,812	81,866 (63.5)
1996	210,494	13,420	68,020	129,054 (61.3)
1997	245,399	15,900	81,451	148,048 (60.3)
1998	157,689	11,143	47,009	99,537 (63.1)
1999	217,384	12,592	69,454	135,338 (62.3)
2000	285,506	19,063	77,448	188,995 (66.2)
2001	329,555	27,614	46,735	255,206 (77.4)
2002	362,597	33,697	39,661	289,239 (79.8)
2003	388,816	200,039	50721	138,056 (35.5)
2004	421,641	196,603	36555	188,483 (44.7)
2005	345,579	126,497	38290	180,792 (52.3)
2006	394,511 (June)	166,599	38692	189,220 (48.0)
2007				
2008 <sup>41</sup>	190,777	156,429	NA	34,348

Source: Ministry of Justice and Korean Immigration Service, Various Years.

<sup>39</sup> These undocumented workers includes the overstays those are in reality not engaged in low skilled jobs but difficult to differentiate for immigration bureau and Ministry of Labor and their number in very low.

<sup>40</sup> Difference of labours between total labours and undocumented and trainee during 1987 to 1993 was legally permitted high skilled employee.

<sup>41</sup> Source: Korean Immigraion Service



### 3.4 Conclusion

Korean Immigration system was started with ITTP was to enable Korean overseas invested companies to bring foreign labour as a trainee, to fulfil the labour shortage raised due to “3 D syndrome” and as this syndrome increased with more Ds like demanding, distant, government had to change its policy several time to accommodate more and more foreign trainees. However, government was reluctant to give them labour status as this could led them entitled with equal labour rights and other social security as par as native Korea workers. Focus of Korean government was to hire foreign workers on temporary basis, on the short term visa with minimum government’s liability and to facilitate SMEs to get possible cheapest labour to maximize their profit. Their policies about foreign labour were to consider them as cheapest renewable raw products which can be used to maximize the profit with little expenses. This led to their severe exploitation, human and labour rights violations. This all resulted in increase of undocumented labours as it did not solved the permanent shortage of labours in some industries and sectors. The problem of labour shortage and gradual increase of labour shortage was never addressed properly and it seems that Korean government’s immigration and labour policy was to virtually keep these labours undocumented through ‘side door’ policies as it provide them cheap labour with no accountability and at least expenses. Dong-Hoon Seol and John Skrentny<sup>42</sup> also underline that no governmental body took the immigrant labour policy seriously and its outcome was expected and not variant with policies.

Seol and Skrentny in the same article argue that *“This outcome is attributed to very strong client politics. Although immigration policymaking is dominated by the Ministry of Justice, with little active participation by political parties and immigrant advocacy groups, policymakers are influenced by highly organized small and medium-sized business owners who are the principal beneficiaries of immigrant workers. The Korean*

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<sup>42</sup> Seol, Dong-hoon and Skrentny, John D. (1992), “South Korea: Importing Undocumented Workers”, in Wayne A. Cornelius *Controlling immigration: a global perspective*, California: Stanford University Press.

*Justice Ministry has steadily expanded its “Trainee” program, which has conveniently provided employers with underpaid and highly exploitable foreign workers. For similar reasons, the Justice Ministry has been more lax than its Japanese counterpart in cracking down on illegal immigrants and the employers who hire them.”*

Seoul and Skrentny are well supported by data released by Ministry of Justice on the number and percentage of undocumented workers and background and reasons for implementing different immigrant policies at different times. Percentage of undocumented immigrants which has reached up to 80-90 percent were could not be hidden from authority and was easy to cracked down in a homogeneous society like Korea. But it was government reluctance due to contradiction between its ‘no low skilled immigration policy’, persistent labour shortages and pressure from SMEs to provide them cheap labour to be competent in production.

Pressure of SMEs and their influence was clearly visible on Korean government immigration policies. Korea having no immigration policy permitted to bring foreign workers through “Side Door” under the pressure of these SMEs and instead of protecting the human and labour rights of foreign labours it take care of the interest of SMEs only. With no “workers” status these trainee were not entitled to minimum wages, other legal, social, industrial or national safety and security benefits and prone to exploitation through different means for the economic benefit of these SMEs and state. Initial trainee program which was known as ITTP was totally under control of these SMEs and completely regulated by themselves with no government control or supervision. So, rules and regulation made by SMEs were only to keep their own interests. Their influence on the government regarding the low skilled workers was clearly visible when government failed to bring Employment Permit System in 1995 and had to wait for almost 8 years till 2003 when undocumented labours reached to 80 percent. This was all due to protest and opposition from these SMEs. This was not only their opposition to EPS but when government tried to bring some laws to protect the basic rights of foreign workers and give them some accidental and health related insurance securities, it had to face the

opposition of SMEs and a inferior accidental insurance securities were given to them. This shows that Korean government well protected the interest of SMEs and seems to failed on its social front to accommodate and integrate with society despite low fertility rate, aging population, shortage of manpower and new intra-cultural development.

## Chapter 4

### *Political Economy of Korean Immigration*

#### 4.1 Introduction

Following the rapid industrialisation of South Korea and high GDP growth rate of three decades under authoritarian and military rule of Park Chung-hee (Dec 17, 1963 to Oct 26, 1979) and Chun Doo-hwan (Sept 1, 1980 to Feb 24, 1988), it has been started to face the new social, economic and political challenges emanating out of educational and economically empowered consciousness of people. The three decades of rapid development not only make Korea stand in the league of most industrialised nations of the world but also highest percentage of college going population, high per capita income, full employment and higher longevity. Korea which was initially an agrarian society with low educated population increasingly became white collar working population in the decade of 1980. During the three decades of Korean transformational history which resulted into “Miracle on *Hangang*” witnessed the change in labour force in agriculture from 66% in 1960s to 18% in 1990s, contribution of agriculture in GDP from 37% in 1960s to 7% in 1990s<sup>43</sup>, rural and urban population which was 75.4 percent and 24.5 percent respectively during 1960s reversed into 21.4 percent and 78.6 percent in 1990s (Moon 2001)<sup>44</sup>, high literacy rate which was 71% in 1960s changed into almost 100% literacy rate by 1990s and same was in the number of college graduate, life expectancy rose from 53 years in 1960 to 72 years in 1990<sup>45</sup> (An 2003), fertility rate from 6.0 in 1960 to 1.9 in 1990 far below the replacement level of 2.1<sup>46</sup> and rise in percentage of aging

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<sup>43</sup> Source: World Bank (2002), *World Development Reports (2002)*, and Council of Agriculture, Taiwan from International Rice Research Institute (2002), “*Rice today*, volume 1”

<sup>44</sup> Kil, Sung-hum & Moon, Chung in (2001), *Understanding Korean Politics: An Introduction*, NY: State University of New York Press, Albany.

<sup>45</sup> An, Pyong man (2003), *Elite and political power in south Korea*, UK: Edward Elgar Publishing Limited.

<sup>46</sup> Lee, Sung Yong (1995), *Sex Preference Versus Number Preference: The Case of Korea*, CDE Working Paper No. 95-23, US: University of Wisconsin-Madison.

population from 2.9% in 1960 to 5.1% in 1990 (10.9% in 2010)<sup>47</sup>. These all social transformation took place while Korea was transforming itself from a poor and backward nation of per capita income \$1,302 in 1960 to a developed country having per capita income \$ 8,977 in 1990, on 1990's prices<sup>48</sup> (Siegfried 2010). This social transformation along with “Miracle on *Hangang*” which is used as a term to show economic transformation of Korea facilitated demand for greater political participation, social consciousness, rising expectation due to mismatch of qualitative supply and demand of labour force and hence dissatisfaction and peoples’ movement against prolonged and prevailing authoritarian rule. This dissatisfaction against prolonged authoritarian rule resulted in the fall of military regime and transition and consolidation of democracy in Korea in the last decade of 20<sup>th</sup> century. In the post authoritarian era when transition and consolidation was taking place, Korea witnessed the rapid changes in the political, economic and social aspects. One of the major changes that were affecting the political, economic and social aspects of Korea was structural changes in the labour market. Korean labour market changed from lewis type “unlimited supply of labour” during 1974-75 to era of “limited supply of labour” which also ended in 1989-90 to its last stage i-e to the era of “Labour shortage” except the economic crisis period of 1997<sup>49</sup> (Uh & Yoo 2002).

The symptoms of labour shortage was started to be visible since the era of “limited supply of labour” in 1980s and Korean government to fulfil these shortages taken some social and economic measures like enacting the “equal employment act” prohibiting gender based discrimination in 1987 and “aged workers employment promotion law” to give some preference to elderly people and mandatory hiring of certain percentage in 1991 but it failed to cope with burgeoning labour shortage which reached to 4.3 percent in 1990. SMEs related to manufacturing and construction sectors were most affected by labour shortage as due to “3-D syndrome”. With government failed to fulfil these shortage through domestic labours it had left no other option but to permit foreign unskilled workers. Korean government’s “no immigration” policy and prevailing world

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<sup>47</sup> Source: Korea National Statistical Office

<sup>48</sup> Siegfried, John J. (2010), *Better Living through Economics*, USA: Harvard College.

<sup>49</sup> OECD (2002), *Migration and the labour market in Asia: recent trends and policies*.

affairs like success of Nordpolitik of President Roh Tae-woo, falling of Berlin Wall in 1989, weakening of Soviet Union and finally its collapse in 1991 resulted in the initial hesitation to bring foreign labours. With all these political development of world affairs were expected to result in complete isolation and ultimately fall of North Korea and now unification of Korea was looking imminent. Koreans' anti-American sentiments since the Chun Doo-hwan and economic emergence resulted in the ethno-nationalist mobilization. Korean people riding on these ethno-nationalist sentiments which were bolstered by prospective unification of Korean peninsula in near future reflected in its labour immigration policy. Knowing that almost 40% of North Korean population is involved in agriculture and they could be future unskilled labour for Korea in post unification scenario, Korean government permitted the short term labour programme named as Industrial Technical Training program (ITTP) in 1991. This program was for a short period of time permitting foreign workers as trainee and not as worker and having no labour rights. However, this program amended time to time and Korea finally started to accept foreign workers with worker status and all the labour rights in 2003 due to political-economic development at home and its relation with North Korea. Meanwhile Korea observed the consolidation of democracy with active participation of Korean people, rise in activities of human and labour rights groups, election of two consecutive left leaning presidents, strengthening of left leaning political parties like Democratic Labor Party (DLP) and nuclear crisis of Korea peninsula and post economic crisis analysis of labour market where foreign labours were seen inevitable for Korean industries.

Initial hesitation of Korean government to permit foreign workers to work in Korea for long term basis with full workers rights resulted into increase in the number of undocumented workers, which had reached up to 80% of total low skilled foreign workers. This initial hesitation and subsequent labour immigration policies were result of political and economic changes took place since the ascending of Roh Tae-woo as a first elected government since 1960 to subsequent political and economic changes.

## 4.2 Political Development and Labour Immigration

### 4.2.1 Roh Tae-woo period (1988-1993)

Economic policy adopted and implemented by Park Chung-hee and later continued by Chun Doo-hwan resulted into emergence of Korea as a economic power of Asia and it declared it to world by winning bid for 1988 summer Olympic despite prolonged and continued military rule. However, this was the period when Korean were fighting against military rule and at last, first time presidential election held democratically since 1960 in 1987. Roh Tae-woo, a close aide of incumbent military ruler Chun Doo-hwan won the election with the backup of Chun Doo-hwan and due to weak and fractional opposition. Roh Tae-woo, despite elected president of Korea lack the democratic legitimacy from the people due to his close attachment with Chun Doo-hwan and his military background. In the post election scenario he faced different challenges ranging from organising 1988 summer Olympic successfully with participation of maximum countries, decreasing economic growth and visible labour shortage, and on top of that to increase level of acceptance from Korean people due to its military background. His first major political success was his “Nordpolitik” which was meant to isolate North Korea by improving its bilateral relations with traditional ally of North Korea, especially with China and Soviet Union. Initial Success of Nordpolitik of Roh Tae-woo resulted into participation of 160 countries in 1988 Olympic despite not having diplomatic relations with 2<sup>nd</sup> world countries including USSR and China. Another significant development in bilateral relations was with Philippines. Roh Tae-woo strengthen its relations with Philippines engaging in several rounds of talks for economic, social and cultural exchanges with President Corazon Aquino. Roh Tae-woo’s presidential tenure witnessed historical changes which includes Unification of Germany, formation of Commonwealth of Independent States (CIS), dissolution of Soviet Union in 1991 and improvement of relations between North and South Korea through the “*Agreement on Reconciliation, Nonaggression, Exchanges and Cooperation between South and North Korea*” in 1991. Both Korea through this agreement declared that “in keeping with the longing of the entire Korean race for the peaceful unification of our divided fatherland” (1991

Agreement, 1991) and recognised “that their relationship, not being a relationship as between states, is a special one constituted temporary in the process of unification” which should be achieved peacefully.<sup>50</sup> These historical developments in world affairs were centred in and on the Korean peninsula. They affected Korea people greatly and it was expected that unification of Korean is very imminent like Germany. It saw rise in nationalism which was collective reaction of anti-Americanism, successful hosting of Olympic<sup>51</sup> and declaring itself a new economic power through it.

In this pretext and developments, Korean government adopted policies to fulfil the labour shortage domestically through various means like promoting employment of older workers in different industries by enacting “The aged workers employment promotion law in 1991<sup>52</sup>”(Reisman 2009, OECD 1999 & 2001 ). However, burgeoning labour shortage which was reached up to 4% of total labour could not be fulfilled and Korean government allowed foreign workers employed in overseas operations of Korean companies as industrial trainee and only for 6 months. Possibility of Korean unification and reclaim of ethnic superiority of Korean race by Korean people had made foreign labour immigration a politically sensitive issue and thus initial hesitant on immigration policy shown by Korean government had reflection of it. Due to “No Immigration” policy of government and labour shortages Pilipino workers found opportunities to work as domestic help in *Gangnam* area of Seoul as agreements of cultural exchange between Roh Tae-woo and Corazon Aquino, President of Philippines.

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<sup>50</sup> Becker, MA Judith (2008), *Lessons from German Unification for the Korean Peninsula*, Germany: Grin Verlag

<sup>51</sup> Korea was only 2<sup>nd</sup> Asian nation to host Olympic after Japan and this time it beats Japanese bid by 52:27 votes. Beating Japan, its colonial ruler, was nothing less than starting with Gold medal.

<sup>52</sup> This law was to promote employment of workers aged more than 55 in 160 occupation that having employees more than 300. This law encourages establishments to have atleast 3% of their workers aged more than 55 and urges government to provide more training facilities and job information to older workers.



#### 4.2.2 Kim Young-sam period (1993-1998)

In 1993, Kim Young-sam elected as a first president with civilian background and, despite his pre-election alliance with Roh Tae-woo he was respected as first civilian president of Korea. Korea now had fully transformed from authoritarian rule to democratic and more liberal states. The first peaceful transfer of power from an outgoing government to newly elected government was observed as win of people's movement against authoritarian rule and political empowerment of people. Newly elected president with new political and economic confidence declared on his inauguration on February 25, 1993 that "no ally can come before our fellow Korean people" and later repatriated Yi In-mo (a North Korean communist prisoner) to North Korea in a good will gesture<sup>53</sup>. However, the normalisation efforts of previous government which was continued by Kim Young-sam as reflected in his inaugural speech and his good will gesture in releasing Yi In mo was washed away after withdrawal of North Korea from NPT in 1993. The initial euphoria of unification did not last long and Korea had to look alternative source for its labour shortage. However, the high wave of national sentiments was still present and this was reflected in emergence of new concept of "Greater Korea". This was ethnic sentiments flowing in full motion in emotionally charged economically powerful Korean society to reclaim and help their divided ethnic brothers. These new sentimental developments of "Greater Korea" was about giving preferential treatment and job opportunities to Korean ethnic people from China and Commonwealth of Independent states (CIS).

President Kim Young-sam's liberal policy and his political legacy as champion of democracy and human rights reflected in his "*Segyehwa*" which did not meant only economic liberalisation but "far more comprehensive, embracing political, cultural, and social open-mindedness" (Kim, 2000). This brought new discussion in Korean media and elite about liberalisation, globalisation and most importantly pluralism & cross culturalism in Korea. Lee Hong Koo, senior vice president of the advisory council of

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<sup>53</sup> Seong, Han-yong (2008), "A return to Kim Young-sam's hardline on North Korea?", *The Hankyoreh*, Seoul, 05 November 2008.

democratic and peaceful unification in 1993 advocated for the forward looking approach in accommodating foreigners for their own survival and power, said that

*“World history teaches us that those who embrace heterogeneous cultures and civilization have proved to be much more creative, resourceful and reform minded. As we enter the information age, it is obvious that such culturally adaptive or flexible societies will be able to develop new technologies and innovations at a far more rapid pace. In this regard, we should be worried about the possibility that the myth of national homogeneity might foster cultural and psychological inflexibility, which would be detrimental to our efforts to enhance our technology and knowledge in this era of harsh international competition”*<sup>54</sup>

Chung in Moon, in the same way supported the cross culturalism saying that

*“Inward looking and xenophobic biases cannot cope with the challenges of spontaneous globalization. Peace education, education for human capital formation and cross cultural education constitute critical components of managed globalization...cross cultural education assists individuals in transforming themselves into citizens of the world. Individuals are the ultimate agents of globalization (Moon 1995). ”*

This was the period when Korea elites started to advocate for the globalisation of Korea which does not only includes its economic part but social and cultural as well because demographic structure of Korea or any developed and industrialised nations required a certain and minimum number of people to work unskilled jobs at low wages

However, these advocating groups were few in number and most of Korean scholars including media were more cautious regarding opening of labour market despite supporting globalisation. It seems that focus of Korean elite and media was not the foreign labours, their rights or permitting them to work as labour instead of trainee but getting membership of OECD, a group of developed countries. Concerns were shown by newspapers regarding ill treatment to labour but rarely advocated for giving them equal

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<sup>54</sup>Lee Hong-koo (1994), “Attitudinal Reform toward Globalization”, *Korea Focus*.

rights as native or granting relief to foreign labour who have already stayed for significant years.

During the presidential era of Kim Young Sam who and some elites strongly advocates for the labour rights, *Segyehwa*, cross-culturalism & globalisation, foreign workers witnessed and suffer severe economic, physical and some time sexual exploitation. These workers were not even considered as workers but trainee and so, they were not entitled for any labour rights, industrial or accidental insurance coverage or minimum wages. The minimum wage law or industrial accidental compensation insurance and national health insurance started to given to trainee in 1995 were substandard compared to native and were only to save “image” of Korea. Due to inhuman behaviour to workers Korea was being criticised as racial and xenophobic in International media and it could be an issue in getting OECD membership. So, it seems that these little improvements in the situation of labour were to follow the standard labour practice of OECD countries. Korea even failed to give labour rights to foreign workers in 1995 under pressure of SMEs. This again shows the strong influence of SMEs on government against labour and human rights commitment of government. Korean government’s reluctance to give labour rights to trainee till 2000 again does not match its advocacy to globalisation, cross-ethnicity, and commitment to labour rights or following the minimum standard of OECD

#### 4.2.3 Kim Dae-jung (Feb, 1998-Feb, 2003) & Roh Moo-hyun periods (Feb, 2003 to Feb, 2008)

However, situation of labour rights was little improved when Kim Dae-jung and his successor Roh Moo-hyun became presidents in 1998 and 2003 respectively. Both were considered as left leaning presidents and this was the period when left oriented political party Democratic Labor Party (DLP) came into existence and gain significant popularity in Korean people and also won some seats. The two consecutive left leaning Presidents were by product of human and labour rights activism and this period saw major change in foreign labour policies when trainee were initially permitted to work as a worker after

mandatory training of 1 or 2 years in 2000 and then implementation of EPS system in 2003. However, the Journey to the EPS (Employment Permit System) which came into effect after passing of EFWA (Employment of Foreign Workers Act) was not very smooth and strong resistance were shown by different stake holders including Ministry of Commerce, Industry and Energy, KFSB, Ministry of Justice and some Political Parties like United Liberal democrats. On the other side there were supporting groups like Ministry of Labor, Political parties like New Korea Party, New Millennium Democratic Party, some NGOs and labour and human rights groups. The first group was against the EPS system arguing that expected rise in wages and other benefits would put heavier financial burden. It was between economic interest of KFSB and human & labour rights of foreign labours. However, Korean government's policies were to "balance economic interests with human rights concerns". The pressure of KFSB was resulted in the long delay and finally dilution of EFWA in 1997 though it was supported by ruling New Korea Party (NKP), President Kim Young Sam and opposition National Congress for New Politics through separate bills by Lawmakers Lee Jae-oh of the ruling party and Bang Yong-seok of opposition party.

When Kim Dae-jung became president he tried to bring EFWA in April 2000. Advocating in the favour of EFWA he argue that

*"We should be ashamed about the discrimination against foreign migrant workers when we are aiming at establishing state safeguarding human rights in global era"*<sup>55</sup>.

This initial enthusiasm and advocacy by 'human rights champion' President of Korea also did not sustain the constant pressure of KFSB, opposition from opposition parties like GNP and ULD. Amounting their pressure and opposition to EFWA five major business organisations including KFSB warned the devastating effect of new bills under present provision. Finally, on January 9, 2001 the ruling NMDP government decided to not introduce the bill due to conflicting interests of different stake holders including Ministry of Labour, Ministry of Commerce, Industry and Energy, Ministry of Health and

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<sup>55</sup> Lee, Yong-wook & Park, Hye-mee (2005), "The Politics of Foreign Labor Policy in Korea and Japan", *Journal of Contemporary Asia*, Vol. 35 No. 2. National Assembly of Korea ([www.assembly.go.kr](http://www.assembly.go.kr))

Welfare, Ministry of Justice, business sectors and domestic workers.<sup>56</sup> The bill was even not submitted to the standing committee of National Assembly and the Representative Kim Yun-seek, chairman of the NMDP's special committee in charge of small businesses announced that

*"We have decided to shelve the plan as the economy is in trouble and small businesses are strongly opposed to the bill".*

He expressed his concern over possible financial burdens would have to be bear by SMEs after the enactment of this law.<sup>57</sup>

The act EFWA finally passed under President Roh Moo-hyun in 2003 despite continued opposition by others as it was became a political issue and became one of the issues in presidential election campaign. Roh Moo-hyun during his presidential campaign stated that,

*"As responsibility and rights are inseparable, the nation, joining the ranks of advanced countries and the UN human rights conventions, should hold up labor policies meeting the international norms and standards not only in name, but in reality".*<sup>58</sup>

In the following table the positions of different stake holders has been shown during three presidents Kim Young-sam, Kim Dae-jung and Rho Moo-hyun.

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<sup>56</sup> Lee, Hung-taik (2003), "Protection of Foreign Workers' Rights" *Korea Times*, Seoul, 12 January, 2003.

<sup>57</sup> National Assembly of Korea (NK "<http://www.assembly.go.kr/>") "MDP shelves Introduction of Work Permit System," *Korea Times*, January 10, 2001.

<sup>58</sup> *Korea Times*, February 2, 2003.

**Table 1: Positions of Actors on EFWA<sup>59</sup>**

		Kim Young-Sam administration (New Korea Party,1993-1997)	Kim Dae-Jung administration (New Millennium Democratic Party,	Rho Moo-Hyun administration (New Millennium Democratic Party,
Government	Ministry of Labor	for	for	for
	Ministry of Commerce, Industry and	against	against	against
	Ministry of Health and	against	n.a.	n.a.
	Ministry of Justice	against	against	moderately against
Political Parties	New Korea Party	for	n.a. (disorganized in November 1997)	n.a.
	National Congress for	for	n.a. (disorganized in	n.a.
	NMDP	n.a. (established in	for	for
	Grand National	n.a. (established in	against	medium
	United Liberal	against	Moderately	Moderately against
Business sector	KFSB	against	against	against
	Digital Small Business	n.a.	n.a.	for
Non-profit organizations	Labor unions	against_for (1997)	for	for
	Civil society groups	for	for	for

<sup>59</sup> Lee, Yong-wook & Park, Hye-mee (2005), "The Politics of Foreign Labor Policy in Korea and Japan", *Journal of Contemporary Asia*, Vol. 35 No. 2.

### **4.3 Economic factors and labour Immigration**

Beside political and social factors regarding unskilled foreign immigrants specially presence of high percentage of undocumented workers and their labour and human rights violation, there were economic factors as well. Issues of how much these labours are burdening to Korea and its economy and how much it is helping in boosting Korean economy were main prevailing questions. The cost benefit analysis of these foreign immigrants and their role in Korean GDP also was subject to public interest and debates. On the one side foreign workers were complaining about low wages, long working hours without extra payment, hold wages, non-payment and delayed payment and virtually no social, medical or insurance benefits and on the another side Korean people were worried about possible job lost, decreased wages due to gradual increase in the number of foreign workers. However, there was third aspect about their contribution to the Korean economy, specially their contribution to the SMEs. These all three things wages, employment and profit of SMEs were co-related and all depends on the wage difference between unskilled foreign workers, jobs they are doing and its resultant gain made by SMEs as a capital gain.

#### **4.3.1 Wages**

Korean industries especially SMEs were facing the two major challenges since the second half of 80s were shortages of domestic labours and cheap labours to compete overseas competitors in international as well as domestic markets. Due to changed economic and social scenario after “Miracle on *Hangang*” wages of Korean workers were increased several folds and they were no more interested in doing so called “3-D jobs”. Facing these double challenge Korean SMEs started to hire foreign workers whatever means they got. Most of time these foreign workers were undocumented and ready to work on low wages compared to native. So, Korean SMEs, to maximise their profits started to exploit the labours of poor countries. They fixed their wages based on their

nationality. KITCO which regulates the foreign workers fixed the “wages” based on the GNP per capita of home countries of labour irrespective of domestic wage level and these foreign “trainee” were also not subject to minimum wages. The nationality based wage discrimination and overall average wages paid to these workers were comparatively very low compare to Korean workers. When ITTP was started in 1991, wages of trainees were half of the native but it increased once they become undocumented or got some experienc. However, wage difference between native and foreigners for the same job was significant. The discriminatory nature of wage system based on nationality was continued till the employment permit system was adopted in 2003 and average difference of wages between native and foreign workers was almost \$300.

Table 2: Comparison of wages (in won), 1999

Wages Composition	Korean Workers	Foreign Workers
Average Wages	901,913	621,000
Basic Wages	585,580	361,600
Other allowances, bonus & fringe benefits	316,333	259,400

Source: Small and Medium Business Administration (1999).

### 4.3.2 Employment

Availability of foreign workers who were ready to work on low wages compare to their Korean counterpart was initially considered as threat to job prospects of native and this was the reason why foreign immigrants did not get support from labour groups or officially approved by government and thus this was reflected in public attitude and government policy towards immigrants. They were initially considered as temporary substitution to native and not the permanent replacement. This was the reason why government incentivised the SMEs several times to hire native workers. However, the job market of Korea had been virtually saturated with only two percent of unemployment rate



since late 1980s to 1997 and gradual increase in labour demands was impossible to fulfil by native. So, this was the mutual need of Korean SMEs and foreign workers which reflected in the foreign labour situation in Korea. This argument was vindicated in the after-math of Korean economic crisis of 1997 when despite high unemployment of around six percent<sup>60</sup>; labour shortage still prevailed in some sectors despite incentivized payments by government to SMEs on hiring Korean workers. The wage subsidies offered by the government to replace foreign workers with native did not attract much Koreans to work replacing foreigners. Their unwillingness to do these kinds of jobs was still prevailed. The failure of government incentive policy was reflected in the total expense of government subsidy in the year 1999. Only 16.6 percent of government budget of the financial year 1999 was used till September 8, 1999.<sup>61</sup> So, after the economic crisis it was established that foreign workers are still not taking away jobs of native but helping in the sustaining of Korean SMEs by providing labour and benefiting them by working cheaply.

#### **4.3.3 Economic Benefit to SMEs**

The mutual need of Korean SMEs and foreign workers resulted in the gradual increase in the number of foreign workers especially undocumented in the 'no immigration' country Korea. Their illegal status and need to work and stay in Korea at any cost led to their exploitation by Korea SMEs who were happy with the prevailing labour and immigration law. Through the prevailing situation they were getting cheap foreign workers to work in their factories running with reduced capacity due to acute shortage of domestic labours. This situation was helping Korea and its industry multiple ways without burdening much. These foreign workers were not entitled to minimum wages and average monthly wage difference were almost \$300 compare to native. Foreign workers were benefiting Korean GDP and SMEs by multiple ways. With increased domestic consumption due to large

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<sup>60</sup> Unemployment rate rose from 2.6% in 1997 to 5.8% in 1998. OECD, Labour migration and the recent financial crisis in Asia.

<sup>61</sup> ILO (2008), *Admission of Foreign Workers as Trainees in Korea (2008)*, Park, Young-bum, Thailand: Asian Regional Programme on Governance of Labour Migration

presence of foreign workers, saving money for SMEs on working low wages, increasing their production capacity which was running low due to labour shortage and finally helping in reducing the living cost of some Korean by working as domestic help on low wages and producing goods little cheap.

The overall contribution of foreign workers in Korean GDP has not studied but at one estimate they were saving almost 400-500 billion Korean Won per year for the SMEs. Choi Dong-kyu, a senior official at KFSB while opposing the EFWA in 1997 stated that *“With the introduction of the system, small firms’ labor cost burdens will rise by 400 billion to 500 billion won a year”*<sup>62</sup>.

#### **4.4 Conclusion**

The last two decades of Korean history has observed the transformation of Korea from a military backed authoritarian political system to democratically elected presidents and emergence of some left leaning leaders as products of civil movements in Korea. On the other side it has also observed the economic changes from crony capitalism and economic development policy with suppressed labour wages to member of OECD respecting the different labour rights and ensuring high wages for native labours. These all changes on domestic front have also affected the status of foreign labours largely consisted of undocumented low skilled labours. The transition of political structure resulted into the passage of EFWA in 2003 but for a long time Korean SMEs and Korean economy had been benefited due to low wages paid to foreign workers. These SMEs had been continuously pressurised the government for a long time to not enact EFWA and this was reflected in delayed passage of EFWA. Since the first time foreign workers permitted to work in Korea as a trainee in 1991 to 2007 when it was ceased to exist has shown how many contradictory developments taken place in Korea. Korea emergence as a liberal, democratic country and advocate of human rights has not been reflected when foreign workers were concerned. These foreign workers have been helping Korean

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<sup>62</sup> 17 ibid ; *“Dispute over Foreign Worker Permit System Heats Up, Korea Herald, May 27, 1997”*

economy through various means without taking away jobs of native and were lacking for basic human and labour rights for long time. Korean governments and concerned of various stake holders was to protect the interest of SMEs and Korean economy without taking any responsibility of foreign workers.

## *Chapter 5*

### *Immigration, NGOs and Other Stake Holders*

#### **5.1 Introduction**

The inflow of foreign workers started under the military rule of Chun Doo-hwan period when Korea eased its visa norms for the foreigners as Korea was to organise Asian Games in 1986 and Olympic in 1988. However, this immigration was permitted for the short term period mostly on tourist visas opening the window for unskilled workers of other Asian countries to work in the massive construction works going on due to preparation of Asian games and Olympic, other industrial production, domestic help. Korea, by that time, started to face the unskilled labour shortage in some construction, manufacturing and other SMEs. The number of these foreign workers increased day by day and finally reached around 300,000 in 2002 and most of them defined as illegal or undocumented. Before the EFWA enacted and came into effect, most of these workers were undocumented as Korean Immigration law does not permit foreign workers to come Korea as a worker and work.

This number in compare to Korea's total work force was not significant but their concentration in some certain sectors specially bracketed as 3-D by Korean workers make them significant. They played very important role in the construction, fisheries, manufacturing, services and other sectors which were suffering most. Their role in these industries did not only save money, increase their profit but made them competitive in the international market by working on very low wages without fringe benefits, overtime payments and industrial and other social safety covers. However, their contribution to the Korean economy never been rightfully recognised despite they had become integral and indispensable assets and not burden. This was vindicated during and after the Asian economic crisis when despite the high unemployment and incentive wages provided by Korean government native workers did not turn up for these jobs. To reduce the

unemployment rate during and post crisis time Korean government left no stone unturned but all went in futile and foreign labour once deported or left had come back to Korea and since then their number is gradually increasing.

Korea, to fulfil the burgeoning labour shortage in the beginning of last decade of last century started to permit foreign workers to work in labour deficient industries but its policy was for short term and it does not recognise foreign workers as worker but trainee. So, they were not entitled for any benefits or security cover meant for labours stipulated in prevailing domestic labour law act or other International act to which Korea had commitment. Another discriminatory point was that their policy was racial in nature and against its commitment to the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) which it had ratified in 1978<sup>63</sup>. Korea's discriminatory policy towards foreign labours was hidden under its policy of giving full discretionary right to KITCO to control, supervise and regulate the foreign workers. KITCO was allowed to bring workers as a trainee and their autonomous, autocratic and opaque nature of working made the foreign workers vulnerable to exploitation based on their nationality. For example, wages they got from their employer were based on the per capita income GDP of their home country and not all the foreign workers working the same work get paid the same amount of wages. They were also paid far less than their Korean counterpart for the working of same kind of job. This policy was old and tested policy of 'divide and rule' in the form of 'divide and exploit' the labour to maximise their own benefits. They also give preference to ethnic Korean workers of China and CIS countries over other nationality in giving job opportunities and paying higher wages. Reasons for giving preference to ethnic Korean and not giving worker status to unskilled foreign workers was to create wealth for the homogenous Korea only. Power of economy and wealth, they had experienced in their history and has been observing in its neighbour country Japan, another ethnic country, has admired them to emulate the same success story. This resulted into ITTP, WATP and finally EPS. The journey of foreign workers

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<sup>63</sup> CERD came into effect in January 1979 and government had to submit reports to the Committee on the Elimination of Racial Discrimination every two years since 1980.

from illegal working to work as a trainee through ITTP and WATP and then as a worker through EPS is story of their exploitation by their employer through various means like no minimum wages, wages based on nationality, non-payment of wages, holding the wages, its delay payment, paying commission out of it, taking long working hours without paying overtime, holding passports and air-tickets, abuse and ill-treatment, sexual exploitation, physical abuse, not paying industrial accident compensation, no medical or accidental insurance cover, severance payment, working on holidays and no fringe benefits. They did not enjoy the basic labour rights like making union, collective bargaining etc. However, their journey and struggle for equal rights as par as native Korean and with international standard has not been achieved and they have seen many ups and down during this journey.

Since the ITTP was implemented and first batch of workers landed Korea as a trainee their struggle with homogeneous Korea begun. Initially they were perceived as threat to homogeneous Korean society and so initially permitted to stay only for six months and again extended six months. At that time Korea was transforming from autocratic dictatorial rule to democracy and labour or human rights movements was not so strong. So, they were silent victim of their own exploitation. Focus of labour and human rights movements in the later years were native Korean and not foreign workers. So, they could not attract much attention of human rights groups to fight for their cause and remains un-united due to their own barriers of language, religion, ethnicity and nationality.

The exploitation and discrimination of foreign workers for the economic benefit of some SMEs and Korean economy; and labour demand-supply gap constantly and deliberately maintained by Korean government through its immigration policy created green pasture for these trainee and foreign unskilled workers to come Korea at any cost and become undocumented after some time to earn more money to remit back home to pay back money borrowed to pay commission to agents and once they came and their economic expectation like higher salary did not meet, they had left the sole option to resist through their 'everyday acts of resistance' and this was well reflected in the percentage of

undocumented workers present in different years as data released by ministry of labour and immigration shows.

The issue of increasing percentage of undocumented workers in Korea was never been a issue for the ruling political class because their status contributed more to the Korean economy without burdening them any social responsibility and this is what government wants. Undocumented workers were easy to deport on government will when their utility got over. This 'use and throw' policy was also admitted by one official from the Ministry of Justice, who stated that, "*As far as we know, the United States also relaxes control on illegal Mexican workers during the orange harvesting season. Afterwards, it repatriates them on the reports of employers*".

The policy of exploitation and discrimination was continued for a long time until it started to come in national and International news reports after their protests and rallies in broad media glare. They were also supported by some NGOs working for labour and human rights in Korea and had global contacts. The reporting of human rights abuse, exploitation and discrimination started to bring bad names for Korea and started to tarnish its image and it became big issue for Korean people who are more concerned of image of their nation. Their historical opposition to the exploitation after Japanese colonial period and their continuous fights for human and labour rights during and after military rule in last decade of last century augmented their support for the cause of foreign labours. So, initial protest and fights of foreign workers was endorsed by NGOs, religious groups, civil rights groups, and other section of society.

Korean newspapers also showed their concern about tarnishing image of Korea in international sphere. *Korea Economic Daily* stated that, '*taking advantage of cheap foreign labour [would] hurt our international prestige in terms of human rights*' ('*Migrant foreign workers*', 1994). Korea herald in his editorial expressed its anger against unethical practices by some employers its effect on korea international reputation. Expressing its anger in its editorial it stated that '*some disturbing reports regarding the*

*unfair and inhumane treatment of foreign workers have attracted the concern of international labour organizations...while this is clearly a moral issue, the unethical practices of some employers reflects poorly on Korea's international reputation'* (remedy for alien workers', 1997)

However, NGOs, civil rights groups, religious groups and some political parties helped the foreign labours through various means like fighting for their cause, demanding equal labour rights, protecting their human rights, enactment of EPS, helping them in getting industrial compensation, legal representation, counselling etc.

## **5.2 Korea: International Commitments and Immigration Policy**

Korean government to keep the homogeneous nature of country initially allowed the foreign workers as a trainee and under the full control, regulation and supervision of KITCO. This policy was known as ITTP and it was implemented in very racial way. The way it was implemented by KITCO was very racial in nature and it gives wages based on the per capita income GDP of home country of workers (see Table 1).

Table 1 Average monthly wages in Republic of Korea construction firms by nationality in 1992<sup>64</sup>

Nationality	Average monthly wages (US \$)
Malaysia	536
Philippines	502
Thailand	440

<sup>64</sup> ILO (1995), social and labour issues concerning migrant workers in the construction industry, Geneva.



Iran, Islamic Rep. Of	347
India	293
Bangladesh	202
Indonesia	82
Nepal	71
Sri Lanka	38

Source: park, 1994b.

Table 1 shows that race and nationality based discrimination policy was practiced in Korea and this was so high that even workers doing the same work have difference of almost 15 times. While Malaysian and Philipinos paid most Nepali and Sri Lankan paid lowest i-e mere 71 and 38 US\$. This wage based discrimination was three tiers. First group was Korean nationals who paid very high compare to foreign workers; second group was ethnic Korean from CIS and China who were initially most in demand due to ethnic solidarity and paid most among foreigners and third tier was unskilled workers of rest of world we have seen in Table 1.

Nationality based wage practice was adopted by Korean SMEs since 1991 despite ratification of International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in December 1978 and which came into effect in January 1979. According to CERD government has to submit reports to the committee on the Elimination of Racial Discrimination every two years since 1980.<sup>65</sup> Korean constitution also, which was adopted on 17<sup>th</sup> of July 1948 and after its amendment on 29<sup>th</sup> of October 1987, assured the foreigners' rights by international law and treaties (Article 6 Para. 2).<sup>66</sup>

<sup>65</sup> Lee, Yong-wook & Park, Hye-mee (2005), "The Politics of Foreign Labor Policy in Korea and Japan", *Journal of Contemporary Asia*, Vol. 35 No. 2.

<sup>66</sup> [www.ilo.org/public/english/dialogue/ifpdial/info/national/kor.htm](http://www.ilo.org/public/english/dialogue/ifpdial/info/national/kor.htm)

Korea also joined the ILO in December 1991 and joined OECD in December 1996 but despite its member since 1991 it ratified “C111 Discrimination (Employment and Occupation) Convention, 1958” on 4 December 1998. This clause prohibits discrimination in terms of employment based on race, colour, sex, religion, political orientation, ethnicity and social background.

Korea’s commitment to CERD, ILO and despite its membership of UN and OECD the discrimination based on race was continued by giving preferential treatment to foreign workers of Korean ethnicity and wage differentiation based on nationality. This was reflected in the Employment Management Program initiated by Korean government which was especially designated program to facilitate overseas Korean especially residing in Russia, CIS, and China to work service sectors like restaurant business, business support service, social welfare services, cleaning, nursing, and housekeeping and these sectors were prohibited for other foreigners. These kinds of jobs were considered as less demanding, less difficult, higher social value compared to 3D jobs and also higher paid jobs.

### **5.3 Religious Groups and Immigrants**

Continuous exploitation of foreign labours in Korea started to attract the attention of civil society, NGOs and religious groups whose message and teachings were universal in nature. In Korea, Buddhism and Christianity have been two major religions and since the immigration of foreign labours started Islam has emerged third most following religion. These all religious group, despite their religious nature, sincerely and actively involved in the protection, defence, raising the voice of foreign workers and ready to help in need irrespective of religious orientation of foreign workers. Their works were not involved in teaching and preaching their religion to these workers but to collectively fight for their rights along with human rights groups and NGOs. They played very significant role in changing the public opinion which was initially anti-immigrants fearing that they would be risk to homogeneous society of Korea. Their appeal to accept these foreigners

as an equal human being and respect their human rights had greatly affected the Korean people. They were also involved in providing emergency services like medical services, legal service, weekend trips and visits to understand Korea and its culture to live more comfortable life, some time arranging community meet and counselling services free of charge or with nominal charge. For example Korea Muslim Federation (KMF) provides counselling service for underpaid, injured or illegal Muslim labourers, a regular Sunday *Madrasah* for local and foreign Muslim children, and medical clinic with visiting doctors provides treatment and medicine free of charge on the last Sunday of every month.<sup>67</sup> These facilities and services were very helpful to the Muslim workers and some time non-Muslim as well because getting cheap education for their children in Korea has been one of the biggest challenges for migrant workers. In the same way many Korean Buddhist centre like 'Lotus Lantern International Meditation Centre' is working continuously for the welfare and human rights of foreign workers besides teaching them Buddhism.

These religious organisations besides providing counselling and other services in the form of help they also participated in the protest and other movements for the improvement of life and rights of foreign workers. They supported and participated in different campaign "Opposing Discrimination against Migrant Workers" under the banner of 'Joint Committee for Migrant Workers in Korea' (JCMK) and 'Common Committee for Elimination of Discrimination against Migrant Workers and Promoting Basic Rights' (CEDMW). Supporting the cause of migrant workers Jung Jin-woo, a coordinator at the 'Buddhist Coalition for Economic Justice', one of the organisation participating in the CEDMW, said that "*Human rights abuses against foreign workers here appear to be deeply rooted among some Korean employers, who tend to discriminate against people at a lower point in the social hierarchy*"<sup>68</sup>

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<sup>67</sup> [www.islamawareness.net/Asia/KoreaSouth/ks\\_article002.html](http://www.islamawareness.net/Asia/KoreaSouth/ks_article002.html)

<sup>68</sup> Lee, Yong-wook & Park, Hye-mee (2005), "The Politics of Foreign Labor Policy in Korea and Japan", *Journal of Contemporary Asia*, Vol. 35 No. 2.

In the same way 'The Justice and Peace Committee of the Catholic Bishops' Conference of Korea' voicing their concern about human rights violation of foreign workers in Korea issued a statement

*" .... would like to make clear its position on the problems of foreign migrant workers in Korea, based on universal fraternal love and human rights we believe that developed countries should make humanitarian fraternal love and human rights. We Believe that developed countries should make humanitarian efforts to protect and promote human dignity and overcome all kinds of human rights violations. We appeal to all people of good will but especially to employers and government authorities.....Frequently people consider illegal foreign workers as taking job opportunities from Korean people and think that they are deprived of legal protection because they are illegal. But we believe that the principal of human rights should be respected in all places and in all circumstances."*<sup>69</sup>

#### **5.4 Role of Judiciary**

Trainee program (ITTP) was introduced in Korea with primary goal of providing cheap labour to SMEs and this was referred as *"a system in which wages are intentionally depressed and the entry and mobility of workers tightly regulated"*. However, the situation of foreign workers changed slowly but gradually which reflected into increase in wages (stipend) and some other rights which show the struggle of labours and support of "non market-political forces" and Judiciary was one of them. Judicial body of Korea, especially Constitutional Court and Supreme Court has been played major role in recognising the discrimination against foreign workers and has given instruction to Korean government and other concerned body as a remedy.

Korean court has been playing significant role since the beginning of trainee system and has been treated foreign workers as par as domestic. Role of Judiciary can be analysed

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<sup>69</sup> [www.smc.org.ph/religion/korea.htm](http://www.smc.org.ph/religion/korea.htm)

through various verdict it had awarded in favour of foreign workers. This begins in 1993 when Seoul Superior Court established the right of undocumented foreign workers to receive compensation for industrial injury by in Case No 93Ku 16774<sup>70</sup>.

The increasing number of case of exploitation and violation of labour rights started to come in light and became subject of discussion and criticism of public domain after increase activism of NGOs and even some religious groups along with NGOs publicly showed their grief and resentment towards government policy. Finally government created a special court to exclusively deal the issue of foreign workers (*Korea Economic Daily*, 20 January, 1995)<sup>71</sup>. Korean Supreme Court in another case (Case No. 97 Ta 18875) gave its verdict in favour of undocumented workers of their rights of severance pay. In this case, South Korea's Supreme Court upheld a lower court's decision that ruled all foreign workers, 'including those working illegally', deserve severance benefits. Giving its verdict in the case of Mohamad Abdul Kalek, a Bangladeshi labour, Supreme Court said that his illegal status does not nullify his employment contract and therefore he is entitled to 3.67 million *Won* in severance benefits from his former employer ("Illegal Foreign Workers Awarded Severance Pay," *Korea Herald*, August 8, 1997)<sup>72</sup>. With series of Judicial ruling in favour of workers Ministry of Labour of Korean government had to adopt a new policy on 14 October, 1998 to universalise Labour Standard Act to all labours irrespective of their nationalities and legal status. According to Labour Standard Act all employers will be now subject to same level of punishment for violating this against foreign workers or domestic workers.<sup>73</sup> However, at this time it was applied to only employers having more than 4 employees and again Korea extended the occupational accident law to cover all workers in all companies in July 2000.

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<sup>70</sup> Lim, Timothy C. (2006), "NGOs, Transnational Migrants, and the Promotion of Rights in South Korea", in Takeyuki Tsuda (eds.) *Local Citizenship in Recent Countries of Immigration: Japan in Comparative Perspective*, UK: Lexington Books.

<sup>71</sup> *ibid*

<sup>72</sup> *ibid*

<sup>73</sup> The foreign workers's handbook <http://www.pusanweb.com/guides/employment/handbook.htm>

In another case which was brought to the constitutional court in 2004 by some Pakistani and Uzbek trainee, Constitutional Court gave its verdict in their favour o 30<sup>th</sup> August 2007 declaring that the “Guidelines on the Protection and Management of Industrial and Technical Trainees from Abroad” unconstitutional as it deny them some of the important rights guaranteed under the labour Standard Law, including the rights to retirement allowance and to institutionalised leaves. The Constitutional Court stated:

*“When industrial trainees are working under virtual labour relationship, providing labour as a matter of fact in the name of training under the guidance and supervision of their employers and receiving remunerations in cash or in kind in the name of stipends, it is difficult to find reasonable grounds for excluding industrial trainees from abroad from the scope of the important provisions of the Labour Standard Law”<sup>74</sup>*

## **5.5 Role of NGOs and other concerned groups**

*“The myth that Korea can tap into the global flows of labour to solve its own manpower difficulties whilst maintaining complete racial homogeneity drives the basic injustice behind the system. It is the very definition of a human rights violation to have a policy of wanting the labour power without the person, and of using without conferring any real rights for their own protection against abuse”*

Dr. Kevin Gray, University of Sussex, Brighton, UK<sup>75</sup>

This is what Korean government tried to achieve through its trainee policy and practice for a long time despite signatory of CERD, CCPR and CESCRC. Article 5(e)(ii) of CERD, article 21(1) of the CCPR and article 8 of the CESCRC all protect the right of workers to freedom of association, and in particular to form and join trade unions, irrespective of

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<sup>74</sup> [www.hurights.or.jp/archives/newsinbrief-en/section1/2007/09/south-korea-constitutional-court-recognized-equal-labour-rights-for-industrial-trainees.html](http://www.hurights.or.jp/archives/newsinbrief-en/section1/2007/09/south-korea-constitutional-court-recognized-equal-labour-rights-for-industrial-trainees.html)

<sup>75</sup> Gray, Kevin (April, 2007), “From Human to Workers’ Rights: The Emergence of a Migrant Workers’ Union Movement in Korea”, *Global Society*, 21:2, p305.

their immigration status. Although South Korea has made a reservation on article 22 of the CCPR (freedom of association), it has done so stating only that it is to apply this article “in conformity with the provisions of the local laws including the constitution of the Republic of Korea” but the flaws in this policy was exposed in its constitution itself which was interpreted by constitution court of Korea as following Korean constitution states that

*“All citizens are equal before the law. No one shall be discriminated against in any area of political, economic, social or cultural life based on gender, religion or social status”.*

However, constitutional court ruled that despite the term ‘Citizen’ basic rights of foreigner and citizens are equally protected by constitution with limitations only in the area of political participation.<sup>76</sup> Article 33(1) of the constitution also provides that “workers have the right to independent association, collective bargaining, and collective action” so, reservation on article 22 of the CCPR cannot be justified.

However, despite these constitutional, legal and international obligatory commitments, foreign workers and other NGOs in Korea had to travel a long journey to ensure the basic labour rights of Korea. This was journey of foreign workers from trainee system to EPS and beyond that and in this journey these workers were well supported by NGOs, students, middle class like lawyers, some business people, low ranking public servants, white collar workers, lawyers and some religious groups through various means. These political liberal groups were part of labour, political and human right movements of Korea since the authoritarian period despite restriction and were vocal critic of rights violation by authoritarian government. Once they won the struggle for democracy for their nation and universalisation of their view regarding human rights they gradually broaden their scope of fights to foreign workers as well.

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<sup>76</sup> Constitutional Court decision 93 Ma 120, 29 December 1994 and 99 Ma 494, 29 November 2001. Source: Amnesty International (2009), “Disposable Labour Rights of Migrant Workers in South Korea”, UK: Amnesty International Publication.

The struggle against exploitation and discrimination was supported by some NGOs like Labour Pastoral Center (LPC) since the beginning. LPC was established in 1979 and since then fighting for the domestic workers but once foreign labour issues surfaced it started to fight for them also. Main significance of LPC was that for the domestic labours it fights to respect national laws and for the transnational workers it voiced for international norms and standard as committed by Korea by signing CERD and ILO. Their fight was resulted in its success in 1993 legal case when labours won compensation for industrial injury in Supreme Court. However, due to constitutionally non-binding nature of Supreme Court decisions,<sup>77</sup> labours were dependent on morality of employers and government and in this scenario counselling centres run by these NGOs and other groups were very helpful in collecting unpaid wages or severance pay, medical assistance and financial compensation for work related injury, dealing with housing and medical problems, violence at work place and etc. To raise the voice and attract the attention of general public as well as government to the plight of workers they supported the public demonstrations and protests in 1994 at the headquarters of the 'the Citizen's Coalition for Economic Justice' (CCEJ) and in January, 1995 at the *Myongdong Cathedral*. In the first protests a small group of industrially injured workers from Nepal, Bangladesh, the Philippines and Ethiopia staged a sit-in to draw the attention of human rights violation with the support of CCEJ. However, these workers succeed to attract the attention of general public and received some non delivered promise. Second protest was staged by a group of thirteen Nepalese "trainees" and well supported by CCEJ. This protest attracted more attention of general public after public apology tendered by Cardinal Kim to foreign workers in Seoul. Number of NGOs and other religious groups supporting the providing counselling service to foreign workers increased dramatically. The CCEJ, its Buddhist counterpart, the BCEJ (the Buddhist Coalition for Economic Justice), the Archdiocese of Seoul/LPC and Joint Committee for Migrant Workers in Korea (JCMK) played very significant role in fighting for their cause.

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<sup>77</sup> Quoted from "Korean Legal System-the Judiciary," *Korean Legal Resources on the Internet*. Retrieved from [www.siu.edu/offices/lawlib/koreanlaw/](http://www.siu.edu/offices/lawlib/koreanlaw/).



JCMK, which was umbrella organisation to fight for the human rights of migrant workers, constantly keep pressure on government through demonstrations like hunger strike and 'driving demonstration', signature campaigns and public hearings. JCMK published a white paper entitled *The Report on Oppressed Human Rights of the Migrant Trainee Workers* (in Korean *Weiguk-in sanop kisul yonsusaeng ingwon paekso*)' in March 2000 and sent it directly to the then President Kim Dae-jung, a champion of human rights movements. However, despite showing initial positive response to this report President Kim Dae-jung retract his decision to abolish the trainee system under the pressure of SMEs, Ministry of Commerce, Industry and Energy and some others.

However, constant and co-ordinated effort of different NGOs and organisations resulted in the expansion of rights of foreign migrant workers like application of Labour Standard Act, the Minimum Wage Act, and the Industrial Accident Compensation Insurance Act and legal extension of trainees to work as worker. This expansion of rights was result of not only LPC, JCMK or CCEJ but other NGO and groups as well who were working independently. They are *Minbyun* (Lawyers for a Democratic Society), Seoul Bar Association....*Minbyun* and Seoul Bar Association were involved in providing *probono* legal assistance to migrant workers<sup>78</sup>, Labour Human Rights Centre (LHRC), which was established in 1989 and was first to begin work for the cause of immigrant labours since 1992.

The hard work done by these groups gave some fruitful results and it resulted in the form of EPS. Significant change was observed in their monthly wages and they now started to receive more than 858,000 *won* (based on a 60 hour work week) and this is considered as comparable to native workers doing the same job with similar working hours and Industrial trainees, despite their trainee status, now covered by South Korea's basic Minimum Wage Act.<sup>79</sup>

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<sup>78</sup> 8.8 percent of all lawyers in Korea are member of *Minbyun* they also pay monthly membership dues of 100,000 *won*. "Seoul Bar Association offeres Free Legal Assistance to Foreign Workers", *Korea Herald*, 22 April, 1997.

<sup>79</sup> *Korea Herald*, "Migrant workers in Korea Earn 7 Times what they gain at home", 10 May, 2002.

## 5.6 Post EPS

“After much fanfare the EPS was enacted through the act of EFWA in 2004 and came into effect on 1<sup>st</sup> January, 2007. The EFWA was intended to provide migrant workers with greater legal protection and recognition as workers under domestic labour law, prohibit discrimination; recognise their right to access to a system of redress against employers in cases of unpaid wages or industrial accidents; and have national health insurance. As workers, they are also covered under the Minimum Wage Law and have the rights to freedom of association, collective bargaining and collective action.”<sup>80</sup> However, it failed to achieve its goal as stated by Moon Kyun-ran, Standing Commissioner, NHRCK “*Contrary to its purpose, the EPS mass produce irregular migrant workers and elements within the system also violate the human rights of migrant workers*”<sup>81</sup> and a UN special rapporteur noted that despite all the commitments and rule providing equality to foreign workers through EPS, it has fail to provide a judicial mechanism for holding accountable those who violate this provision.<sup>82</sup>

## 5.7 Conclusion

Foreign workers with the active support of NGOs and other groups like religious bodies, Lawyers’ group, civil groups and individuals achieved the equality as par as Korean workers and trainee policy was finally abolished, which was once described as “nothing more than the modern day slavery” by JCMK in 2002, was abolished after implementation of EPS. These groups provided foreign workers various resources they

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<sup>80</sup> Amnesty International (2009), “Disposable Labour Rights of Migrant Workes in South Korea”, London: Amnesty International Publications.

<sup>81</sup> Lee, Tae Young, “Current system mass produces irregular migrant workers-also lots of human rights violations, reform needed”, *Segye Ilboi*, 17 August 2009 (in Korea), [www.segye.com/Articles/NEWS/SOCIETY/Article.asp?aid=20090817003952&subctg1=&subctg2=](http://www.segye.com/Articles/NEWS/SOCIETY/Article.asp?aid=20090817003952&subctg1=&subctg2=), accessed on 19 May, 2011.

<sup>82</sup> “Report of the Special Rapporteur on the human rights of migrants, Mission to the Republic of Korea (5-12 December 2006)”, UN Doc. A/HRC/4/24/Add.2, 14 March 2007, para 20.

would otherwise not have access to and also helped them to legitimise their genuine demands in general people and ruling establishment and loosen the preconceived prejudice towards foreign workers.

This resulted into improvement of rights and protections for the workers and equal treatment. However, still more need to do even after enactment of EPS. Foreign workers still lack rights of settlement and continuous long stay as workers, reunion of family and on top of all judicial mechanism to punish the violators of their human rights as reported by United Nations in its report on the human rights of migrants in 2006.

## *Chapter 6*

### *Policy Lessons and Conclusion*

#### **6.1 Conclusion**

Korea, finally, abolished its ITTP in 2006 and implemented EPS which guaranteed equal labour rights for unskilled foreign workers as par as domestic workers. Admitting unskilled foreign workers under inter government level by bilateral agreements protected them from exploitation in the hand of agents. Since then, this has been only channel for unskilled foreign workers to enter Korea and it also helped SMEs and other industries to hire foreign workers more easily after fulfilling some conditions. The easy and legal access to unskilled foreign workers helped SMEs to hire unskilled foreign workers and these workers also preferred to work on officially designated place as they had not to pay hefty commission like before. Beside this they are more protected at the officially designated place than other work site. The EPS brings some humanitarian face to foreign labour industry of Korea which otherwise was stories of exploitation.

The major factors that attracted foreign workers in Korea were pull factors i-e permanent shortage created in manufacturing, fishing, agriculture, construction, service and other sectors. Korean workers were no more interested in doing these jobs and designated them '3-D' as derogatory low paying jobs. Other cultural, economic and political factors also played major role in attracting unskilled foreign workers like ethnic Koreans from CIS and China, Chinese, ASEAN, South Asian and even from some African countries. Government response to these full factors, especially to short out the problem of labour shortage and control or stop the foreign workers working illegally was lukewarm. Government considered it as a temporary problem and tried to fulfil these shortages through some pragmatic and some ethnic viewpoints like creating favourable conditions for women and elderly people to work and non-recognising the presence of foreign workers. However, these initial policy responses to labour shortage did not addressed the

real problem of labour shortage. This was because Korean population was aging and declining.

Korean government finally adopted ITTP to permit foreign workers as a trainee but this also failed to achieve the goal of reducing labour shortage and subsequent immigration policies of government met the same fate till the EPS was implemented. Beside the failure of government policies to contain labour shortage, it became the source of illegal workers and number of illegal workers increased day by day. The increased number of undocumented foreign workers in Korea, their exploitation by SMEs and government response to their plight was severally criticised by human and labour rights groups and other socio-religious bodies. The government policies were also seen as pro-SMEs and anti-foreign labour as it only protect the interest of SMEs.

The ITTP, which was adopted in 1991 and subsequently replaced by, 'Post-training Employment Program' and 'Employment Management Program', has shown the inconsistency in the policy response to the prevailing problems of labour shortage & undocumented immigrants and Political-Economic changes. Korea, as a liberal economy, and its commitments to CERD, ILO, UN, OECD and other groups for non-discrimination based on ethnicity or race and its commitment to respect of human and labour rights was never respected under the pressure of SMEs. As we have seen how SMEs and their supporting groups prevented the government to enact EPS system several times on the pretext of economic loss.

Since the period of Roh Tae-woo, Korea started as a industrially developed nation moving toward democracy but factors that were most missing was its respect to human and labour rights of unskilled foreign workers which were brought as trainee. The policy of ITTP was permitted and adopted by Korean government but government was not willing to take responsibility of exploitation and discrimination of these workers in the pretext of their 'trainee' status. At the same time it did not prevent the employers to use these people as workers without paying wages. This was continue till ITTP was abolished in 1996 and EPS was implemented as an only channel to bring foreign workers.

However, this EPS has its own flaws and it became official source for the harassment of immigrants. Despite assure protection of human and labour rights of foreign workers, government did not ensure employers to follow the rules and regulation of EPS and to practice better treatment to foreign workers. Through EPS government brings foreign workers through bilateral agreement with labour sending countries and hence it is principal employer of the foreign workers but exploitation of ill-treatment of foreign workers by their hirer is continued. Under the EPS system their rights to change work place or reunion with family member was not properly addressed. On the other side, Korean government in the pretext of implementing EPS started to crackdown foreign worker and en-mass deportation of undocumented foreign workers. The en-mass detention and deportation, which lacks necessary procedural guarantees like case by case study of labours, violates the procedural guarantees against forced return provided for in the International Convention on Civil and Political Rights (ICCPR), Article 13. (11). So, undocumented foreign workers became more prone to exploitation as they prefer to be exploited by their employer rather to be reported and deported.

The journey of foreign workers struggle form IITP to EPS was not easy and Korea's vibrant NGOs, Human Right groups, Labour Unions other bodies like religious groups, middle class, Lawyers, Political Class and even some industry people play significant role. Initially they were afraid of losing Korean jobs to foreigner and concerned more about ethnic nature of Korean society but gradual change in structure of Korean society due to ageing population, visit of Korean youth and middle age people to other countries for tour, study and business and increased International marriage helped them to change their perception toward foreign workers. Association of Korean NGOs with their international counterpart also increased International cooperation among different human and labour rights groups. Their solidarity and cooperation helped foreign workers to not only fight but achieve the goal of equality and respect.

Here my third hypothesis about failure of Korean NGOs, Human Rights Groups and Labour Unions to protect the labour rights of foreign workers failed. These groups despite their limitation worked hard to achieve the equality for foreign workers. Korean

due to their historical experience with foreigner and 45 years of cultural colonisation blended with ethnic and nationalist sentiments. Thus, they were very sceptic towards foreign workers in the beginning. This was also the time of transition of Korean democracy and Korean people were still fighting for their rights. So, their support for foreign workers was naturally weak in the initial period but once the labour movements and rights movements became strong and universal in nature their focus and attention included the foreigners also. So, it was not the failure of these groups to protect but should be considered as their success to mix the nationalistic and ethnic sentiments of Korean people with foreign workers.

## **6.2 Lesson to Singapore, Japan and other State**

Korea was first nation to adopt the EPS system to address the issue of labour shortage and undocumented immigrants after failure of bringing foreign workers on temporary basis through ITTP. However, before permitting foreign workers Korea tried all options to keep the homogenous nature of country like making favourable conditions for elderly people and women to work. However, it could not fulfil the required labours and hence had to permit foreign labours. Sustainable growth of Korea, specially its manufacturing, construction, fishing, agriculture and service sectors could not be achieved without cheap foreign labour force. The low birth rate and increasing aging population, migration from rural to urban areas, and urban to international made this problem severe. Now, foreign companies and even Korean companies started to move other countries where cheap human resource is available and this causes the employment problem for even skilled workers.

These same kinds of problem exists in Japan, Singapore and even some other countries where after certain year of economic growth native people shifted from blue collar to white collar jobs and finally to high tech industries. This started to affect the growth rate and employment condition. Japan facing the same problem as Korea, need to follow some progressive and inclusive immigration policy in unskilled sector to boost the economy and through cheap labours.

Singapore is becoming another case like Japan and Korea. Its projected medium-term GDP growth target prior to economic crisis of 1997 was 7 percent but after that it has reduced to 5 percent and this was expected to decrease year by year if inclusive labour policy is not adopted. Singapore is still in the phase of maximum utilisation of residential labour force like optimum use of residential labour, raising fertility rate, incentivised inclusion of older people. This was the methods Korea adopted in the last years 1980s but could not fulfil the labour shortage required for sustainable growth. In the prevailing word scenario where capital is following labour, a country can sustain economic growth only by providing cheap labour. These cheap labours, from poor countries will not only help in sustaining growth but will also secure high skill jobs for residential people.



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## **Organisation**

International Labor Organisation

Korea National Statistical Office

Ministry of Justice, Republic of Korea

Ministry of Labor, Republic of Korea

Ministry of Legislation, Republic of Korea

National Assembly of Korea

UNESCO

United Nations

World Bank