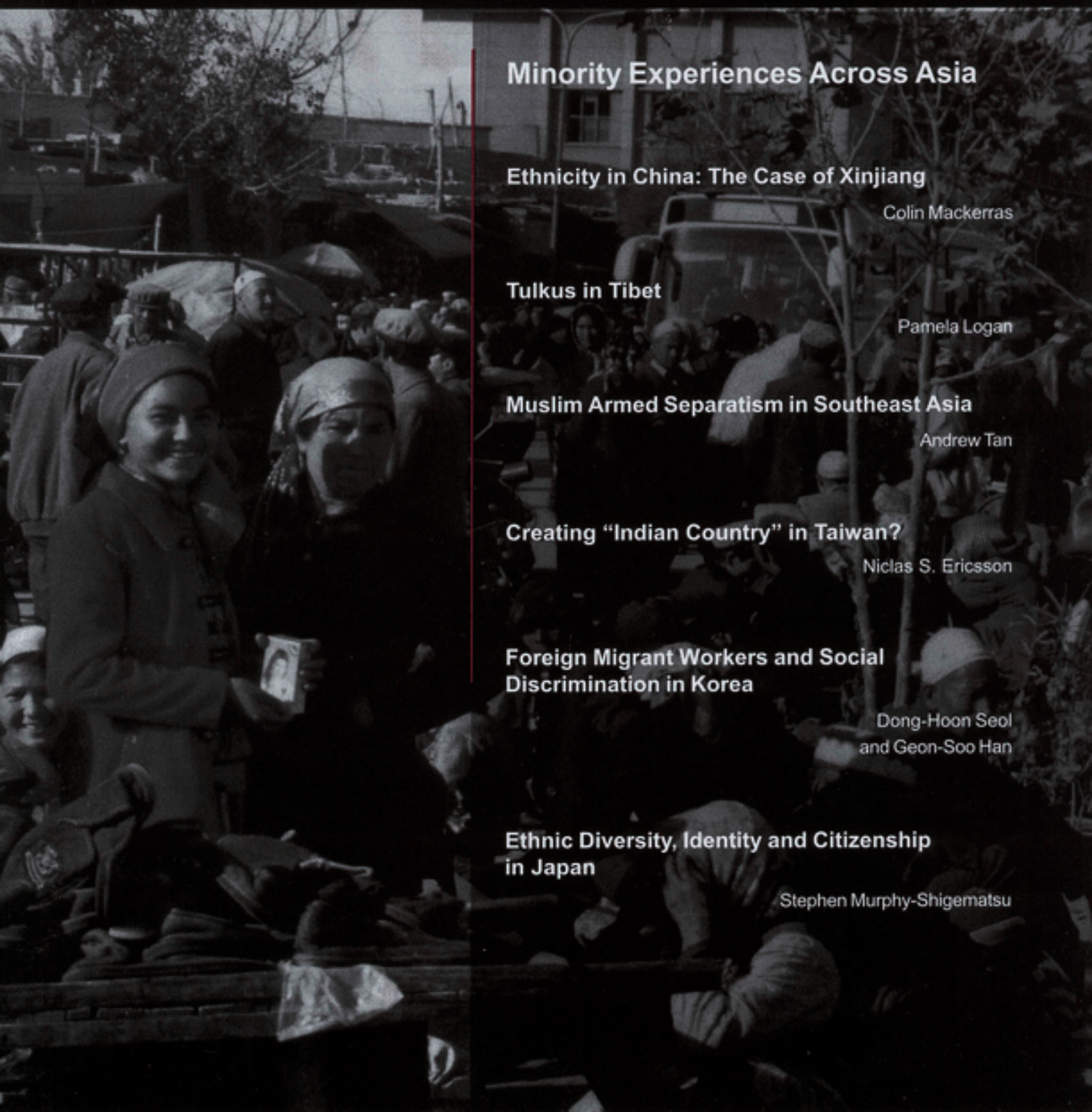


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c/o Harvard Asia Center
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FOREIGN MIGRANT WORKERS AND SOCIAL DISCRIMINATION IN KOREA

BY DONG-HOON SEOL
AND
GEON-SOO HAN

Dong-Hoon Seol is a professor of Sociology at Chonbuk National University in Korea. He received his Ph.D. in Sociology from Seoul National University in 1996. His main research interests are economic globalization, sociology of labor markets, and international labor migration (especially foreign migrant workers in Korea). He has published numerous books and articles on foreign workers in Korea: *Foreign Workers in Korean Society, 1987-1998* (Seoul National University Press, 1999), *Global Capitalism and International Labor Migration* (Seoul National University Press, 2000), and *Foreign Workers' Human Rights in Korea* (National Human Rights Commission of Korea, 2002). His e-mail address is dhseol@chonbuk.ac.kr.

Geon-Soo Han is a professor of Cultural Anthropology at Kangwon National University in Korea. He received his Ph.D. in Anthropology from the University of California at Berkeley in 2000. His research interests include social memory and ethnicity, identity politics, migrant workers and diaspora, and African studies. He has authored "Contesting Narratives of the Past: Social Memory and the Politics of Difference" (2002) and "African Migrant Workers' View of Korean People and Culture" (2003). He did field research in Africa (Nigeria and Ghana) and Korea. His e-mail address is yoruba@kangwon.ac.kr.

The Korean economy has not shown any signs of meaningful recovery since the year 2000. The unemployment rate is still high, and some critical analysis reveals a resemblance to the financial crisis of 1997-1998. However, in marked contrast to the limited job market that young Koreans face, foreign migrant workers face relatively open opportunities to enter the country to work in the so-called difficult, dirty, and dangerous (3-D) jobs. These jobs include working in fields such as dyeing, plating, heat-treat, casting and tempering, machinery, footwear, glass, leather, electricity, electronics factories, and construction.

The job mismatch of the labor market is not a new phenomenon in Korea. College graduates have had difficulties in procuring jobs since the late 1980s. However, while there are numerous college-educated people who cannot find jobs, small- and medium-sized companies still have difficulty finding workers for low wage 3-D jobs. The college-educated have neglected 3-D jobs because of the growth of the Korean economy. The Korean economy's boom generated a perception of having passed absolute poverty and therefore made it possible for them to dismiss job opportunities in 3-D industries. Even the outbreak of the worst economic crisis in 1997-1998 could not alter this job preference – unskilled technical jobs in small- and mid-sized companies continued to be stigmatized with the image of dangerous work environments, long working hours, and low wages.

This situation, in turn, has led many small companies to seek an alternative labor force in foreign migrant workers. In 1991, Korean firms with offices overseas began to recruit foreign migrant workers as "trainees" to work in their headquarters in Korea, and in 1994 private employers' associations – such as the Korea Federation of Small and Medium Business (KFSB), the Construction Association of Korea, the National Federation of Fisheries Cooperatives, and the Korea Shipping Association – followed suit by recruiting foreign migrant workers as "trainees." Although termed "trainees," these foreign migrant workers receive no genuine training and are instead immediately thrust into low-skilled, menial jobs in the small- and medium-size business sector. Classifying them as "trainees" denies them the workers' three primary rights of unionizing, collective bargaining, and collective action. Therefore, they are regarded as "disguised workers."¹

Many undocumented foreign migrant workers come to Korea without proper legal process. For example, many of them enter the country through tourist or short-term visiting visas. The number of foreign migrant workers reached 367,158 in February 2003. About 78% (287,808) of these are undocumented, 13% (46,320) are industrial trainees, 3% (11,801) are post-training workers,² and 6% (21,229) are professionals, according to statistics released by the Ministry of Justice.

The number of foreign migrant workers decreased temporarily around 1998 because of the economic crisis in Korea, but the number has been increasing steadily since the autumn of 1999. Foreign migrant workers filled labor market vacancies in small factories, construction sites, restaurants, farms, and fisheries. Consequently, their presence in certain sectors of the job market has now become so indispensable to the Korean economy that the sustainability of current levels of economic growth will increasingly hinge on it.³ This trend is expected to accelerate as Korea ages as a

society, since total fertility rates have declined from 6.0 to 1.2 during the last forty years. According to a United Nations report, Korea needs to import 100,000 workers every year, and a total of 1.5 million migrant workers between 2030 and 2050 to maintain similar labor power and support senior populations in the standards of 1995.⁴ The report does not consider economic growth factors such as productivity growth, but it remains highly likely that demographic shifts will increase the demand for foreign labor.

Immigrants to Korea come mostly from other Asian nations. The largest sending state by far is China. Slightly more than half of Chinese immigrants to Korea are *joseonjok* (ethnic Koreans in China). Other sending countries include the Philippines, Vietnam, Bangladesh, Indonesia, Thailand, Mongolia, Uzbekistan, Pakistan, Sri Lanka, Russia, India, Nepal, Kazakhstan, Myanmar, and Iran.

Migrant workers have moved to Korea because of both material and cultural-ideological linkages. The number of migrant workers is determined neither by the income gap nor the size of surplus labor force but by the amount of export from Korea and the population of ethnic Koreans in the home country. In other words, many more foreign migrant workers immigrate from countries with strong social linkages than from poor countries with an abundant surplus labor force. This fact is reaffirmed by an examination of the major reasons for which migrant workers choose Korea as their destination. In short, ethnic and economic ties between nations help explain the origins of immigration.⁵

The *joseonjok* (ethnic Koreans in China) and *goryeoin* (ethnic Koreans in Uzbekistan, Russia and Kazakhstan) émigrés are now two, three, or even four generations removed from Korea, but their Korean relatives may still serve as information resources or job contacts. The worker trainee system privileges countries with economic ties to Korea and thus, in a pattern typical of immigration to other advanced countries, facilitates immigration ties.⁶ Korean firms with a foreign affiliate have been allowed to bring trainees into Korea since 1991. Likewise, the employers' associations including the KFSB have contacted international manpower recruiting agencies in the 17 Asian countries with close economic relationships since 1994.

If we consider economic globalization as an irreversible trend, the contact between foreign migrant workers and the Korean people should be understood as a permanent process. The introduction of migrant workers presents integration challenges to an ethnically homogenous Korean society. Now Korea has to find solutions for coexistence with

multi-ethnic migrant workers. The Korean people and migrant workers need to know each other so that both parties may adjust. It is a mutual process of understanding.

What should be a mutual adjustment, however, has progressed under an unequal power relationship that demands

more from foreign migrant workers. In this skewed adjustment process, they have had to face discrimination and human rights violations. This paper illustrates the realities of the lives of foreign migrant workers in Korea. It will primarily discuss the reasons behind discrimination and measures for eliminating it. For that purpose, we focus on manual workers, not professionals. First, this paper will distinguish two categories of patterns of discrimination, institutional and operational. This will be followed by a theoretical explanation in the second section. Finally, this paper will evaluate various efforts for eliminating the discrimination of migrant workers.



Migrant worker protesters in the furniture industry, 2001.

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INSTITUTIONAL DISCRIMINATION

Since foreign migrant workers first started entering the country in 1987, the Korean government has dealt with migrant workers without any special legal basis except for the *Departures and Arrivals Control Act* (DACA) that regulates the immigration process. The DACA does not provide for a visa category for unskilled migrant workers, which reflects the government's decision to not recognize the presence of imported migrant workers. Instead of a set of independent laws, the Korean government has tended to regulate migrant workers based on the DACA. The Ministry of Justice, which includes the Immigration Office and enforces the DACA, does not offer any long-term "work" visa for unskilled manual workers. However, closing Korea's "front door" to low-skilled and unskilled workers only creates a need for a "side-door" for importing foreign workers.

In the late 1980s, the KFSB began to lobby for access to foreign labor. In 1991, the Ministry of Justice created the *Industrial Technical Training Program* (ITTP) for foreigners to meet this demand. The specific criteria to become a foreign industrial trainee in Korea included the following companies and conditions: those companies, in accordance with the Foreign Exchange Act, investing in foreign countries jointly with a foreign company; those companies providing technical support to foreign countries based on the Foreign Technological Development Act; those companies exporting industrial supplies to foreign countries based on the Import-Export Act; and those companies receiving recognition

from the Ministries which decides the legitimacy of hiring foreign trainees.

In November 1993, the government decided to enlarge the scale of importing foreign trainees, under the KFSB. Since 1994 there have been two kinds of trainees in Korea. Workers from one group enter Korea as trainees through their home countries under the control of KFSB. Workers from the other group come to Korea for the purpose of training as employees of overseas Korean companies. According to the program, the imported foreign workers enter Korea as trainees, not workers. Although their visa status is trainee, they actually work in factories without training and are regarded as disguised workers. The ITTP is an important key to understanding the situation of migrant workers in Korea.

The government created the Work-After-Training Program (WATP) for foreigners in 1998 because the ITTP had been criticized for its exploitative qualities. The WATP is a new system in which post-training workers can get elevated legal status after the two-year training period. Post-training workers are actually recognized as “workers” in terms of law. However, NGO activists have criticized the WATP because industrial trainees do not get “real training” during the training period.⁷ The government again changed guidelines so that migrant workers receive only one year of training and can work for two years as “workers” starting in 2002.

Under the WATP, industrial trainees for one year are not recognized as “workers” in legal terms. The WATP has been criticized because it maintains the ITTP. Foreign industrial trainees are excluded from protection by labor regulations meaning that trade union membership and other legal guarantees do not apply to them. For these reasons, the ITTP and/or the WATP have been the target of abolishment by civic activists.⁸

In contrast to the workers classified under the ITTP and WATP, undocumented workers are recognized as “workers” by a judicial precedent of the Supreme Court. The Korean government was forced to address the reality of undocumented workers when they waged a demonstration at the headquarters of the Citizens’ Coalition for Economic Justice in 1994. The government changed guidelines and allowed undocumented migrant workers full rights guaranteed by the Labor Standards Act. This was supported by a decision of the Supreme Court. The Supreme Court in 1997 (Case No. 97 Da 18875) affirmed the right of illegal aliens employed in Korea to receive severance pay, while a series of similar cases by lower courts eventually compelled the government to adopt a more general policy position. Thus, on October 14, 1998, the Ministry of Labor announced that all undocumented migrant workers in Korea would be protected under the Labor Standards Act.

However, it is still difficult for undocumented migrant workers to appeal to law enforcement authorities because of their unstable visa status. Needless to say, this difficulty has led to numerous cases of human rights violations. Undocumented workers, who make up a majority of migrant workers in Korea, cannot report to the police even when they experi-

ence human rights violations because they are “illegal sojourners” in Korea. Some employers intentionally hire undocumented migrant workers and exploit their labor by abusing their legal handicaps. Undocumented migrant workers worry that their illegal status will be revealed if they report their grievances, and they will thus face deportation.

Institutional protection is available for industrial trainees whose income is lower than that of average Korean manual workers because the trainees have “legal status”; however, even undocumented migrant workers who receive similar wages to Korean workers still lack appropriate “legal status.” The wage level of industrial trainees is almost institutionally fixed to a level slightly higher than the minimum wage, but that of undocumented migrant workers approaches the market wages reflecting their skills. The wage differential is caused by undocumented workers’ freedom to change companies.

OPERATIONAL DISCRIMINATION

The wages foreign migrant workers receive are generally lower than those of Koreans with similar jobs. This wage discrimination is common among various groups of migrant workers regardless of their legal status or ethnicities. Two migrant workers complain about this discrimination:⁹

The wages are different. The Korean worker who came to the factory later receives more money and does less difficult work. Even though Korean people learn how to work from me, [the employer] always asks me to do difficult work. Whenever we have bad and difficult work, it is always mine. Koreans who came later and work less difficult jobs always receive money twice as much as mine. (28-year old Malian male, undocumented migrant worker)

There is discrimination. Once I replaced a Korean who works as a team leader because he was sick. But they did not give me the allowance for the position of team leader. When I talked to the boss, he told me that because I am a foreigner, I am not entitled to the benefits. Special allowances are also different: Koreans receive 60,000 won [US\$50] but I get only 40,000 won [US\$35] per month. When the boss increased my special allowances to 60,000 won, Korean workers’ allowances were increased also. I can accept that. Yes! We are foreigners. We do not ask for the same treatment that Korean workers get. What I cannot accept, given the higher level of danger and difficulty involved in our jobs, is that they give us the lowest wages because we are industrial trainees. Painting is hazardous for the body. Korean workers receive higher basic wages. They calculate various allowances such as overtime and night work based on the amount of basic wages. Therefore Korean workers receive much higher wages than us. (40-year old ethnic Korean from China, industrial trainee)

Discrimination against foreign migrant workers is not restricted to the problem of lower wages. Another major type of discrimination has to do with the content of the job itself. Foreign workers do not work alongside Korean workers. Instead, they are assigned to marginal jobs in the factory.

It was in the autumn of 1993. I began to work in a textile factory after having finished a construction job. I was required to find scratches of textiles. I was supposed to receive 800,000 won [US\$ 1,000] per month, however, I could not continue to work there. They treated me like a dog.¹⁰ (41-year old ethnic Korean from China, undocumented worker)

Discrimination against migrant workers in the workplace is manifested in the work allocation process. As “eternal novices,”¹¹ they take charge of undesired jobs. As an underclass, most migrant workers believe that discrimination is prevalent in Korea. Their feeling of discrimination does not only originate from specific individual experiences, but from work life in general. Survey findings reflect this situation. In one survey, about 32% of respondent foreign workers answered that they are discriminated against in the workplace.¹² Ethnic Koreans feel more serious discrimination than other ethnic migrant workers. In reality, ethnic Koreans receive better treatment from their employers because they speak Korean fluently. Employers pay the ethnic Korean workers based on the value of their human capital. Although overseas ethnic Korean workers get higher wages than other migrant workers, they feel more discrimination because their reference group is not migrant workers but indigenous Korean workers.¹³ They have higher expectations from Korean society than other foreign workers and have sufficient understanding of the nuances of the Korean language, which makes them more attuned to discrimination.

Many migrant workers cannot get their wages in the case of bankruptcy or financial difficulty of the employer companies. Sometimes, employers intentionally do not pay migrant workers. Most companies employing migrant workers are small or medium-sized and financially weak. At times, migrant workers do not get wages while Korean employees receive money. According to the forementioned survey, 20% of the respondents answered that both Korean and foreign workers did not receive salaries. However, 41% replied that they did not get wages even though Korean workers were paid, and 39% answered that while Korean workers got wages on time, migrant workers received late payments. The experience of non-payment is higher among undocumented workers compared to industrial trainees because of their illegal visa status.¹⁴

Foreign migrant workers are put in the position of receiving orders not only from supervisors but also from co-workers. They complain that Korean co-workers discriminate against migrant workers more than Korean supervisors. According to the survey, 51% of the migrant workers had experienced “verbal abuse and ridicule” at the work place. 68% of the migrant workers answered that they had been abused by

Korean co-workers and 49% had experienced abuse by supervisors.¹⁵ Some Korean workers regard themselves as supervisors, managers or instructors to the migrant workers. Although this kind of false consciousness of Korean workers amplifies foreign workers’ discrimination, foreign migrant workers do not tend to tell Korean co-workers of their discontent. Korean workers do not acknowledge foreign workers’ complaints. Without meaningful communication, the unequal cultural interactions are bound to result in confrontation.



A 2002 protest at Myongdong Cathedral.

THREE REASONS FOR DISCRIMINATION

Migrant workers came to Korea before the Koreans were ready for their introduction. Korean society accepts them with hierarchical consciousness, and the Korean people have not yet transformed their hierarchical consciousness to one characterized by equality. There are three possible explanations for the discrimination of migrant workers in Korea: (1) racism, (2) xenophobia, and (3) the traditional Korean concept of industrial relations.

First, a hierarchical racial order is being established among the Korean people. The racial discourse of Korean society can be interpreted as a means of justifying migrant workers’ low wages. Many sociological and anthropological researchers illustrate how Korean employers justify low wages for migrant workers based on racial discourses that describe migrant workers negatively.¹⁶ For example, foreign workers with dark skin are likely to experience increased discrimination.

The modern Korean racial consciousness has been evolving since the 19th century. As the Korean people began to meet foreigners, they interpreted physical differences based on the development of technological achievements. In one source, some intellectuals wrote positive adjectives to describe the shape of white people’s faces. On the contrary, they used negative adjective expressions to describe the faces of black people. After describing their faces, the authors identified the technological advances of the white people with their physical characteristics.¹⁷ In addition, since the Korean War (1950-1953), Korean society has evolved under a close relationship with the United States. American mass culture was introduced to Korea. Hollywood movies provide images of different races to Korean people. As result, the hierarchi-

cal racial order of American society has been partially transplanted into Korea.

The racial hierarchy of Korean society, however, is not simple. There are several factors working together, apart from physical characteristics, to establish the racial hierarchy. African migrant workers experience different attitudes from Korean people when they introduce themselves as American. In other words, African-Americans are treated better than Africans. Nationality, it seems, plays an important role in Korean racial hierarchies. As a result, Nigerian and Ghanaian migrant workers often introduce themselves as African-American soldiers in the shopping area near the US military bases.¹⁸ For another example, there are many Russian migrant workers and young women working in the Korean sex industry. In spite of their light skin, their status is not high in the Korean racial hierarchy.

In addition to racism, there is the more general fear of the damage that a large-scale inflow of “outsiders” would do to the cohesion and harmony of Korean society. Contemporary Korean history has reinforced the xenophobic sentiment among the Korean people – the experiences of the 35-year-long colonial rule by the Japanese, and the 40-year Cold War have set up foreigners as the objects of fear and contempt.¹⁹ For example, Koreans often use derogatory expressions to refer to Americans, Japanese, or Chinese. By using these expressions for the major powers, Koreans may feel emotional consolation.

These xenophobic attitudes create contradictory sentiments toward foreigners. Foreigners from developed countries become the objects of admiration while foreigners from underdeveloped and poor countries become the objects of disregard and despise. This attitude appears in the form of excessive hospitality toward foreigners from advanced countries. It is also reflected in the contempt for foreigners from Third World countries.²⁰

Lastly, in traditional Korean concepts of industrial relations based on the hierarchical social status, employers and employees are not equal.²¹ For Koreans, foreign migrant workers are imagined as “servants,” “farmhands,” or “maids.” Traditional Korean culture had a hierarchical job order (from scholar through farmer and engineer to merchants) and this seems to have had a lasting impact on contemporary occupational evaluations. Manual labor is regarded as the lowest rung in the occupational hierarchy. Because of this judgment, foreign migrant workers who are working in 3-D jobs have been treated contemptuously.

Because foreign workers will work in 3-D jobs which Korean people reject, some employers consider foreign workers as “servants.” Small- and medium-sized companies focus on decreasing expenses, and thus attempt to control the daily lives of foreign workers so that they can keep cheap labor power. Some companies hiring industrial trainees do not allow foreign trainees to leave because the companies want to prevent them from walking off their jobs. A few companies even prohibit contact with outsiders. To prevent them from leaving their companies, some employers intentionally do not pay wages on time or confiscate the passports of migrant

workers. Employers do not consider these activities as illegal or discriminatory practices.

EFFORTS TO ABOLISH DISCRIMINATION AGAINST MIGRANT WORKERS

Institutional discrimination might be corrected to a certain extent by a new piece of legislation, the *Act on Foreign Workers' Employment, Etc.*,²² which will take effect on 17 August 2004. This law is the first piece of legislation that grants legal status to unskilled migrant workers in Korea, but it only allows undocumented workers who have stayed in Korea less than four years as of 31 March 2003 to receive permission to work.²³ In implementing the new scheme the government has promised a crackdown on illegal workers and those who employ them. With the crackdown intensifying, some hopeless workers take refuge with ill-willed local employers, who might enslave them and pay them nothing but food and a place to sleep.

We should emphasize that the legislation of the law is a different matter from the observation of the law. What is more important is the change in the consciousness of Korean people. Migrant workers have experienced dis-

crimination in their everyday lives. Their co-workers, supervisors, and neighbors have discriminated against them without knowing what they were doing. It is necessary for Koreans to develop “cultural sensitivity” for other cultures and human rights. Without changes in attitude and consciousness, migrant workers will continue to feel victimized.

The government, civic organizations, and companies need to establish educational programs for Korean employers and employees. It would be desirable if they were to prepare specific programs based on national backgrounds (such as for ethnic Koreans), religious beliefs (such as for Muslim workers), and racial backgrounds (such as for African workers and South Asian workers with dark skin colors).²⁴ Korean employers must improve mutual understanding and cultural communication in the workplace. In addition, there must be an increased cultural awareness of the concept of human rights, for activities that are not considered violations of human rights in Korean culture might be serious violations in other cultures. There must be efforts to increase the sensitivity to and consciousness of human rights amongst Korean employers and employees.

It is necessary that Koreans carry out awareness-raising programs.²⁵ Such programs must instill an understanding that foreign migrant workers are humans just like Koreans, in spite of their differences in culture and skin color; that their cultures and traditions need to be respected equally to those of Koreans; that these foreigners not only contribute to the Korean economy but also enrich Korean culture. Ultimately, Koreans need to adapt to a new reality in which foreigners are not to be avoided, but embraced as neighbors with whom Koreans must learn to live harmoniously.

In traditional Korean concepts of industrial relations based on the hierarchical social status, employers and employees are not equal.

ENDNOTES

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² In April 1998, the Work-After-Training Program for Foreigners was introduced. Under the program, trainees who pass certain skill tests after a two-year training period can continue to work for one year as "workers" and thereby change their visa status to the "Work-After-Training" (E-8) category. The year of 2000 saw the first group of these post-training workers. In January 2002, the program was changed to "1 year training, and 2 years working."

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¹⁴ Seol, Choi and Han (2002), *ibid*, p. 186.

¹⁵ Seol, Choi and Han (2002), *ibid*, p. 105.

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¹⁸ Han (2003), *ibid*.

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²⁰ Dong-Hoon Seol, "Discrimination and Solidarity: The Realities of Human Rights Violation Against Migrant Workers

and Its Solution," *Creation and Critics*, Vol. 29, No. 2 (2001), pp. 358-374.

²¹ Dong-Hoon Seol, "Foreign Workers in Korean Society: Diagnostic Evaluation and Future Vision," *Journal of Labor Studies*, Vol. 13 (1997), pp. 131-158.

²² [http://www.molab.go.kr/English/upload/Act on Foreign Workers Employment, etc5.doc](http://www.molab.go.kr/English/upload/Act%20on%20Foreign%20Workers%20Employment,%20etc5.doc).

²³ The government announced that illegal foreign workers who have stayed in the country for longer than four years and failed to leave voluntarily by November 15, 2003 would be subject to expulsion and heavy fines. Additionally, they will be banned from re-entering Korea. As of November 14, 2003, less than 10 percent of them had left the country (*Korea Herald*, November 15, 2003).

²⁴ In November 2001, a civic activist appealed to the National Human Rights Commission to prohibit the use of the word *salsaek* that literally means skin color. He argued that this usage of the word is discriminatory since it implies that only Asians have skin color. The National Human Rights Commission accepted this appeal and suggested to the Agency for Technology and Standard to come up with a new word to replace it. Now instead of *salsaek* they are beginning to use words that mean 'light orange color' or 'light apricot color.'

²⁵ Dong-Hoon Seol and June J. H. Lee, "Migrant Workers' Welfare in Korea: Problems and Responses," paper presented at the 29th Asia and Pacific Regional Conference of the International Council on Social Welfare. The 63 Convention Center, Seoul, Korea, September 4-7, 2001.