

**Women Migrant Workers' Right to Health:
Experience and Perspective of a Korean NGO on Migrant Health**

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Introduction

The right to health implies the right to a “standard of living adequate for the health and wellbeing”¹ The right to health includes “access to adequate health care (medical, preventative, and mental), nutrition, sanitation, and to clean water and air. It also includes occupational health consequences such as chronic injuries and diseases resulting from unhealthy and hazardous working conditions. This does not mean that an individual has the right to be healthy since no government can assure a specific state of health. The state of health depends on the person's genetic makeup, and is molded by environment and health interventions.”²

Until recent times, the right to health has been conceived of as a declaratory right not to be guaranteed by positive law. However, the experiences of the Second World War recognized the right to health as a basic human right. It is therefore no surprise to find statutes regarding the right to health imbedded in such international instruments as the United Nations Charter, the Universal Declaration of Human Rights, and the constitution of the World Health Organization, among others.

The Constitution of the Republic of Korea states that “all citizens shall be assured of human dignity and worth and have the right to pursue happiness. It is the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.” (Article 10) Articles 34 and 35 of the Constitution also deal with all citizens’ entitlement to a life worthy as human being and the duty of state to endeavor to promote social security and welfare. The state endeavor includes the promotion of welfare and the rights of women. Such provisions promote healthy life of citizens in a comprehensive way.

Although the provisions define citizens’ rights only, Article 6 states that the “status of aliens shall be guaranteed in accordance with international laws and treaties as the treaties duly concluded and promulgated under the Constituion and generally recognized rules of international law shall have the same force and effect of law as domestic laws of the Republic of Korea.” This is especially so with regard to the Labor Standard Act, which stipulates provision of equal treatment that “no employer shall discriminate against workers on the basis of gender, or give discriminatory treatment in relation to the conditions of labor on the basis of nationality, religion or social status.” (Article 6)

¹ From the Universal Declaration of Human Rights, Article 25.

² Definition of right to health is taken from Center for Economic and Social Rights <http://www.cesr.org/health>

Based on these national and international legal foundations, the right to health can also be interpreted as basic right for preserving human dignity and worth, and human life that shall be applied not only for local citizens, but for foreigners as well.

Within a framework of human rights, I will explore the right to health of women migrant workers in Korea, by firstly defining health threatening factors and major health issues faced by women migrant workers, and then looking at government policies, while concluding with recommendations drawn from the experiences of the Migrant Workers Health Association in Korea (Medical Mutual-Aid Union).

1. General Situation of Women Migrant Workers

The number of foreign residents, who reside in Korea for over 90 days, including naturalized and undocumented migrants, was 891,341 as of the end of July 2008. The foreign population accounts for 1.8% of the total population of Korea, which in an increase of 23.3% from last year's figure of 723,000. (Table 1)

Table 1. Foreign Residents in Korea (as of July 30, 2008)

| Classification | | Total | Male | Female |
|------------------------------------|-----------------------------------|--------------------|--------------------|----------------------------------|
| Grand Total | | 891,341 (100%) | 482,870 (54.2%) | 408,471 (45.8%) |
| Non-Citizen Foreign Residents | Total | 767,823 (86.1%) | 440,405 (49.4%) | 327,418 (36.7%) |
| | Foreign Labor | 437,727 (49.1%) | 301,556 (33.8%) | 136,171 (15.3%) |
| | Spouses of Intercultural Marriage | 102,713 (11.5%) | 13,711 (1.5%) | 89,002 (10%) |
| | Student | 56,279 (6.3%) | 29,599 (3.3%) | 26,680 (3%) |
| | Others | 171,104 (19.2%) | 95,539 (10.7%) | 75,565 (8.5%) |
| Naturalized Citizen | Total | 65,511 (7.4%) | 12,628 (1.5%) | 52,883 (5.9%) |
| | Naturalized through Marriage | 41,672 (4.7%) | 2,991 (0.4%) | 38,681 (4.3%) |
| | Others | 23,839 (2.7%) | 9,637 (1.1%) | 14,202 (1.6%) |
| Children of Intercultural Marriage | | 58,007 (6.5%) | 29,837 (3.3%) | 28,170 (3.2%) |

Source: Ministry of Public Administration and Security

* Percentage reflects the ratio between each category to total number of foreign residents.

Foreign migrant labor began entering Korea since the late 1980s as a result of Korea's fast paced economic growth. Importing migrant labor was a huge change for a country that had ten years previously, been a labor exporting nation. At the first stage of labor importation, most of the migrants were young and male, and were predominately from southeast and south Asian countries including, the Philippines, Thailand, Indonesia, Myanmar, Nepal, Bangladesh, Pakistan, and Sri Lanka. However, by the mid 1990s, the number of women migrants began to increase, particularly in such roles as workers, entertainers and even spouses to Korean men.³

From statistics, labor and foreign spouses account for 69% of the total foreign female non-citizen population. Women migrants come from all over the world, but primarily from neighboring Asian countries, such as China, Philippines, Vietnam, Indonesia, Thailand, and Mongolia. (Table 2)

Such demographic changes resulted in one of the most significant social changes in Korea. From what might be called a predominately homogenous country, Korea was transformed into a multi-ethnic and multicultural society. This change is well reflected in a 2007 news article⁴ that summarized the changes taking place in Korea, focusing on the multi-ethnic character of change. The Washington-based Migration Policy Institute also noted these changes when putting out its list of Top Ten International Migration News of 2007.

In spite of this new characteristic, Korea still has not fully absorbed its migrant population fully, with migrant workers in particular, finding their work and residential lives curtailed actions against their basic human rights. In early years of migration, protests by workers did help expose a myriad of problems, including: long working hours and low wages; the withholding of personal documents, including passports; physical and verbal abuse at the work place; the fear of deportation for undocumented workers, and the lack of social protection.

While some of these problems have been addressed, many others continue to thrive.

For women migrant workers, one of the keenest issues is that of health. In Korea, most women migrant workers are employed as manual labor, or in the service manufacturing, agriculture, forestry and fishery industries. According to 2005 statistics of the Ministry of Government Administration and Home Affairs (currently Ministry of

³ Ministry of Justice released *Immigration Statistics of 2007* shows increasing number of foreign population including migrant workers and foreign spouses in intercultural marriages.

⁴ Korea 2007 Summarized in Five Core Sentences, *Chosun Ilbo*, December 11, 2007.

Public Administration and Security), 29,400 women migrant workers out of 40,762 who were involved in economic activities, from among the total number of 79,213 female foreigners, were working as listed above. Specifically 16,682 (or 41% of employed female foreigners) women migrants are elementary workers, 8,453 (21%) are service workers, 2,448(6%) are equipment, machine operating and assembly workers, and 1,119(3%) are sales workers. (Table 2)

Job classifications show that foreigners from economically advanced countries, like the United States or Japan, assume more professional and skilled jobs, while foreigners from Asian countries assume more blue-collar jobs.

According to the survey on the situation of women migrants conducted by the Joint Committee with Migrants in Korea in 2002, more than half of the respondents (54.3%) worked as factory workers, followed by those working in restaurants (18.5%) and domestic helpers (11.7%). It was estimated that the average working period was an average of 57.46 hours a week, which is excessively longer than the 40(44)⁵ hours that are legally stipulated. More than half of respondents live in cramped quarters of less than two square meters.

In general, as women, non-nationals, and low waged workers, women migrant workers face a range of levels, but interconnected, discriminatory practices in the host country;

“Gender: as women workers vis-à-vis men workers;
Nationality: as foreign workers vis-à-vis nationals;
Migration status: undocumented vis-à-vis documented;
Occupation: performing jobs where they are not considered workers;
Wages: performing jobs where the principle of equal pay for equal work is not applied;
Racial and ethnic: the principle of equal opportunities is frequently not applied to members of ethnic or racial groups.”⁶

⁵ From July 2008 company size of employees between 20-49 is applicable of 40 hours working per week.

⁶ Gloria Moreno-Fontes Chammartin. 2006. *Female Migrant Workers in an Era of Globalization*. Paper presented at the UNFPA-IOM Expert Group Meeting on Female Migrants: Bridging the Gaps Throughout the Life Cycle. May 2-3, New York.

Table 2. Foreign Population by Nationality, Gender, and Job Classifications

Unit: person

| Nationality | Gender | 2005 | | | | | | | | | | | | |
|------------------------------|--------|-----------|--|---------------|------------------------------------|--------|-----------------|---------------|--|----------------------------------|---|--------------------|-------------|--------|
| | | Foreigner | Legislators, Senior Officials and Managers | Professionals | Engineering and Semi-professionals | Clerks | Service Workers | Sales Workers | Skilled Agricultural, Forestry and Fishery Workers | Craft and Related Trades Workers | Equipment, Machine Operating and Assembling Workers | Elementary Workers | Non-Working | N.A. |
| Total | Total | 237,517 | 1,671 | 17,040 | 9,924 | 5,131 | 14,804 | 2,907 | 2,788 | 11,125 | 12,581 | 80,553 | 38,381 | 40,612 |
| | Male | 158,304 | 1,483 | 11,629 | 8,197 | 3,578 | 6,351 | 1,788 | 2,090 | 8,642 | 10,133 | 63,871 | 17,858 | 22,684 |
| | Female | 79,213 | 188 | 5,411 | 1,727 | 1,553 | 8,453 | 1,119 | 698 | 2,483 | 2,448 | 16,682 | 20,523 | 17,928 |
| China | Total | 53,509 | 151 | 1,003 | 1,500 | 753 | 2,268 | 549 | 886 | 2,549 | 1,896 | 13,976 | 11,545 | 16,433 |
| | Male | 34,903 | 119 | 631 | 1,159 | 457 | 964 | 346 | 731 | 1,686 | 1,197 | 9,699 | 5,912 | 12,002 |
| | Female | 18,606 | 32 | 372 | 341 | 296 | 1,304 | 203 | 155 | 863 | 699 | 4,277 | 5,633 | 4,431 |
| China (Ethnic Korean) | Total | 37,090 | 43 | 431 | 1,281 | 461 | 5,352 | 429 | 429 | 1,237 | 923 | 15,750 | 6,742 | 4,012 |
| | Male | 21,192 | 27 | 236 | 1,059 | 251 | 1,020 | 188 | 251 | 935 | 703 | 10,956 | 3,268 | 2,298 |
| | Female | 15,898 | 16 | 195 | 222 | 210 | 4,332 | 241 | 178 | 302 | 220 | 4,794 | 3,474 | 1,714 |
| Taiwan | Total | 10,221 | 40 | 573 | 364 | 451 | 1,339 | 488 | 200 | 285 | 221 | 833 | 2,728 | 2,699 |
| | Male | 5,454 | 35 | 320 | 205 | 216 | 727 | 254 | 86 | 156 | 100 | 475 | 1,131 | 1,749 |
| | Female | 4,767 | 5 | 253 | 159 | 235 | 612 | 234 | 114 | 129 | 121 | 358 | 1,597 | 950 |
| US | Total | 13,606 | 294 | 4,681 | 714 | 509 | 571 | 131 | 56 | 93 | 64 | 580 | 4,028 | 1,885 |
| | Male | 8,296 | 257 | 3,242 | 588 | 354 | 360 | 87 | 25 | 70 | 44 | 358 | 1,631 | 1,280 |
| | Female | 5,310 | 37 | 1,439 | 126 | 155 | 211 | 44 | 31 | 23 | 20 | 222 | 2,397 | 605 |
| Japan | Total | 9,636 | 358 | 953 | 687 | 447 | 265 | 202 | 35 | 119 | 62 | 97 | 3,027 | 3,384 |
| | Male | 4,023 | 346 | 680 | 628 | 334 | 147 | 166 | 25 | 96 | 53 | 67 | 970 | 511 |
| | Female | 5,613 | 12 | 273 | 59 | 113 | 118 | 36 | 10 | 23 | 9 | 30 | 2,057 | 2,873 |
| Philippines | Total | 16,652 | 27 | 517 | 619 | 74 | 1,920 | 108 | 156 | 1,184 | 2,563 | 6,157 | 774 | 2,553 |
| | Male | 10,480 | 17 | 290 | 461 | 34 | 892 | 60 | 122 | 906 | 1,983 | 5,027 | 290 | 398 |
| | Female | 6,172 | 10 | 227 | 158 | 40 | 1,028 | 48 | 34 | 278 | 580 | 1,130 | 484 | 2,155 |
| Indonesia | Total | 13,837 | 14 | 134 | 317 | 1,374 | 578 | 24 | 111 | 1,079 | 1,523 | 7,854 | 252 | 577 |
| | Male | 12,126 | 9 | 103 | 289 | 1,168 | 499 | 21 | 107 | 962 | 1,396 | 7,072 | 149 | 351 |
| | Female | 1,711 | 5 | 31 | 28 | 206 | 79 | 3 | 4 | 117 | 127 | 782 | 103 | 226 |
| Thailand | Total | 10,294 | 24 | 235 | 277 | 23 | 87 | 86 | 112 | 798 | 492 | 7,203 | 263 | 694 |
| | Male | 8,245 | 17 | 183 | 238 | 12 | 58 | 52 | 94 | 708 | 322 | 6,137 | 110 | 314 |
| | Female | 2,049 | 7 | 52 | 39 | 11 | 29 | 34 | 18 | 90 | 170 | 1,066 | 153 | 380 |
| Vietnam | Total | 16,814 | 25 | 237 | 817 | 86 | 94 | 46 | 157 | 1,174 | 1,244 | 9,206 | 780 | 2,948 |
| | Male | 11,412 | 20 | 194 | 677 | 58 | 54 | 27 | 124 | 914 | 1,064 | 7,454 | 425 | 401 |
| | Female | 5,402 | 5 | 43 | 140 | 28 | 40 | 19 | 33 | 260 | 180 | 1,752 | 355 | 2,547 |
| Bangladesh | Total | 3,037 | 5 | 68 | 365 | 21 | 171 | 42 | 23 | 185 | 276 | 1,332 | 384 | 165 |
| | Male | 2,753 | 3 | 64 | 349 | 19 | 159 | 40 | 19 | 170 | 267 | 1,250 | 280 | 133 |
| | Female | 284 | 2 | 4 | 16 | 2 | 12 | 2 | 4 | 15 | 9 | 82 | 104 | 32 |
| Mongolia | Total | 7,578 | 7 | 137 | 600 | 75 | 266 | 89 | 79 | 417 | 429 | 3,927 | 1,017 | 535 |
| | Male | 5,291 | 5 | 86 | 443 | 46 | 136 | 45 | 72 | 290 | 347 | 3,124 | 464 | 233 |
| | Female | 2,287 | 2 | 51 | 157 | 29 | 130 | 44 | 7 | 127 | 82 | 803 | 553 | 302 |
| Uzbekistan | Total | 5,479 | 16 | 161 | 163 | 117 | 149 | 73 | 88 | 407 | 473 | 3,053 | 355 | 424 |
| | Male | 4,804 | 15 | 132 | 154 | 107 | 110 | 59 | 84 | 392 | 450 | 2,850 | 224 | 227 |
| | Female | 675 | 1 | 29 | 9 | 10 | 39 | 14 | 4 | 15 | 23 | 203 | 131 | 197 |
| Russia (incl. Ethnic Korean) | Total | 3,120 | 21 | 675 | 169 | 99 | 190 | 103 | 40 | 70 | 69 | 489 | 864 | 331 |
| | Male | 1,583 | 16 | 473 | 142 | 50 | 46 | 40 | 30 | 51 | 56 | 326 | 289 | 64 |
| | Female | 1,537 | 5 | 202 | 27 | 49 | 144 | 63 | 10 | 19 | 13 | 163 | 575 | 267 |
| Pakistan | Total | 4,474 | 26 | 162 | 264 | 38 | 243 | 96 | 31 | 326 | 389 | 2,199 | 363 | 337 |
| | Male | 4,274 | 26 | 146 | 263 | 37 | 237 | 93 | 31 | 320 | 386 | 2,178 | 240 | 317 |
| | Female | 200 | 0 | 16 | 1 | 1 | 6 | 3 | 0 | 6 | 3 | 21 | 123 | 20 |
| Others | Total | 28,521 | 606 | 6,896 | 1,548 | 408 | 1,120 | 250 | 194 | 1,000 | 1,750 | 7,713 | 4,965 | 2,071 |
| | Male | 21,207 | 558 | 4,745 | 1,395 | 312 | 827 | 197 | 178 | 857 | 1,635 | 6,792 | 2,322 | 1,389 |
| | Female | 7,314 | 48 | 2,151 | 153 | 96 | 293 | 53 | 16 | 143 | 115 | 921 | 2,643 | 682 |
| N.A. | Total | 3,649 | 14 | 177 | 239 | 195 | 191 | 191 | 191 | 202 | 207 | 184 | 294 | 1,564 |
| | Male | 2,261 | 13 | 104 | 147 | 123 | 115 | 113 | 111 | 129 | 130 | 106 | 153 | 1,017 |
| | Female | 1,388 | 1 | 73 | 92 | 72 | 76 | 78 | 80 | 73 | 77 | 78 | 141 | 547 |

Source: Ministry of Administration and Home Affairs, 2005

* Job classifications are from the Korea Standardized Occupation Classifications.

2. Health Issues of Women Migrant Workers

Migrant health tends to worsen during the process of migration. As workers leave from their familiar surroundings to a strange land, they have to struggle to adapt to new living and working conditions. Living within a new environment may also expose migrants to new diseases or promote disease transmission. The struggle to adapt has proven to have a negative impact on the physical and mental health of migrant workers. Although migrants are a vulnerable group in society, public health services often ignore them as they are non nationals.⁷ The sad irony is thus exposed: migrants choose or are forced to migrate for a better life, often find that the process of migration is a grave threat to their health and lives.

1) Health Screening for Employment

Under the Employment Permit System (only legal employment program applicable to non-skilled migrant workers since 2004, hereinafter EPS), migrant workers are required to undergo a medical checkup upon their arrival as part of the employment training period. Should a worker fail to pass the initial medical checkup, a second checkup is conducted, more rigorous than the first. The migrant worker must then depart Korea should the result of the second checkup confirm the following 'abnormalities', including Hepatitis B, Tuberculosis, Syphilis or other Sexually Transmitted Diseases and any other infectious diseases. From 2004 to June 2008, 54 migrant workers (2 women and 52 men from Mongolia, Vietnam and Thailand) were found to be carriers of one of the above named diseases, and were repatriated back to their home countries. Interestingly, the Korean Ministry of Health, Welfare and Family, under its revised Infectious Disease Prevention Act of 2000, does not discriminate against any local with hepatitis B for employment purposes.

2) Industrial Accidents

The three "Ds" still exist in most working environments where migrant workers can be found. In these difficult, dangerous and dirty work spaces, industrial accidents or the contracting of an industrially related disease are fairly high. That the workers do not get proper medical care in these circumstances poses a great problem.

⁷ Development Research Centre on Migration, Globalization & Poverty. 2005. *Migration and the Millennium Development Goals for Health*, Briefing no.1. February.

Research has shown that hazardous working conditions often result in chronic disease, including chronic muscle pain and slipped or herniated discs due to the carrying of heavy loads.⁸ Skin problems as a result of by plating, and headaches from constant exposure to organic solvents are some of the common ailments affecting migrant workers. They are also susceptible to diseases related to respiratory, musculoskeletal, digestive, and circulatory organs. In 2005, one particular case drew wide public attention. Thai women workers were poisoned by normal-hexane due to poor ventilation in the work place and poor working condition.⁹ This case promoted the call that a regular medical checkup for migrant workers was essential.

In Korea, regardless of legal status, migrant workers are entitled to receive industrial accident compensation insurance if they succumb to a work related injury or disease. This was firstly made possible, in January 1994, when injured undocumented migrant workers staged a sit-in to demand industrial accident compensation. This sit-in resulted in the status of injured undocumented migrant workers to be changed to ‘G1’ (or for temporary stay) while undergoing treatment and while the compensation application is processed.

Along with an increasing number of migrant workers, the reports and compensation cases of industrial accidents are also on the increase. So too are the cases involving women migrant workers. (Table 3 and 4) Of course, those involved fully understand that these statistics are not comprehensive. There are many more hidden cases which remain unreported and uncompensated. Most companies that do employ migrant workers would much rather compromise by paying for treatments, rather than reporting the case to the authorities in order to receive the full benefit of industrial accident compensation insurance.

Table 3. Industrial Accidents by Gender (2000-2006)

(Unit: case, %)

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | Total |
|--------|------------|------------|-----------|------------|-----------|------------|------------|-------------|
| Male | 1,207(92) | 1,440(92) | 1,937(91) | 2,285(89) | 2,285(88) | 2,132(88) | 2,637(89) | 13,923(90) |
| Female | 102(8) | 125(8) | 184(9) | 269(11) | 307(12) | 288(12) | 311(11) | 1,586(10) |
| Total | 1,309(100) | 1,565(100) | 2,121 | 2,554(100) | 2,592 | 2,420(100) | 2,948(100) | 15,509(100) |

Source: Korea Workers' Compensation & Welfare Service

⁸ Detailed cases of migrant workers' health state are included in *Oegukin Nodongja Euiryobaekseo [Report on the Health of the Migrant Workers in Korea]* published by MUMK in 2001.

⁹ Ohmynews, Jan.19, 2005. http://www.ohmynews.com/articleview/article_view.asp?at_code=232744

Table 4. Legal Status of Injured Migrants (2000-2006)

(Unit: case, %)

| | Documented Migrant Workers (%) | Trainees (%) | Undocumented Migrant Workers (%) | Total (%) |
|--------|--------------------------------|--------------|----------------------------------|---------------|
| Male | 5,322(87.2) | 2,697(93.8) | 6,317(90.1) | 14,336(89.7) |
| Female | 778(12.8) | 177(6.2) | 697(9.9) | 1,652(10.3) |
| Total | 6,100(38.1) | 2,874(18.0) | 7,014(43.9) | 15,988(100.0) |

Source: Korea Workers' Compensation & Welfare Service

In 2000, the Human Rights Association for Migrant Workers defined the major causes of migrant industrial accidents as, first, deficiency of safety gear; second, insufficient safety training; third, accumulated tiredness due to long working hours; and fourth, lack of understanding the Korean language, resulting perhaps in the misinterpretation of instructions.

3) Reproductive Health and Maternity Protection

In reviewing the medical cases of migrant workers who are financially supported by the Migrant Health Association in Korea (Medical Mutual Aid Union or MUMK), it becomes apparent that there are an increasing number of cases dealing with pregnancy and delivery. The breakdown of country of origin shows that the majority are from the Philippines, followed by Vietnam, Mongolia, and China. (Table 5 and Figure 1)

Table 5. Medical Expenses Supporting Cases of Delivery and Women's Diseases (2000-2007)

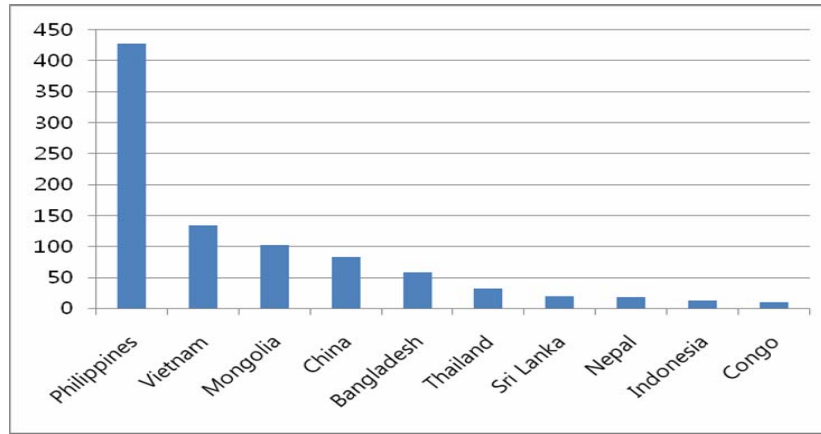
(Unit: case/ amount KRW)

| Year | Total | | Pregnancy & Delivery | | Women's Disease | |
|------|-------|-------------|----------------------|------------|-----------------|------------|
| | Case | Amount | Case | Amount | Case | Amount |
| 2000 | 113 | 29,265,225 | 28 | 10,315,920 | 6 | 2,681,315 |
| 2001 | 281 | 139,845,338 | 87 | 41,988,783 | 11 | 5,917,840 |
| 2002 | 332 | 129,054,080 | 124 | 54,681,310 | 18 | 7,082,920 |
| 2003 | 404 | 198,169,650 | 154 | 64,308,120 | 10 | 3,849,070 |
| 2004 | 296 | 133,572,940 | 153 | 46,544,220 | 28 | 9,707,046 |
| 2005 | 318 | 224,916,628 | 103 | 35,588,740 | 17 | 12,461,050 |
| 2006 | 311 | 209,533,048 | 118 | 43,902,500 | 6 | 4,764,200 |
| 2007 | 361 | 228,633,645 | 159 | 56,958,500 | 12 | 13,789,000 |

| | | | | | | |
|-------|-------|---------------|-----|-------------|-----|------------|
| Total | 2,416 | 1,292,990,554 | 926 | 354,288,093 | 108 | 60,252,441 |
|-------|-------|---------------|-----|-------------|-----|------------|

Source: Annual Report of MUMK, 2000-2007

Figure 1. Top Ten Country of Pregnancy and Delivery Cases Supported (2000-2007)



Source: MUMK statistics, 2000-2007

Currently, the EPS prohibits family members from joining migrant workers on contract in Korea. Therefore, most cases of migrant pregnancies become increasingly complicated as the women are often undocumented. Their hardships are compounded by the lack of maternity protection, the fear of losing their jobs, and of course, birth registration. This makes the entire process of having children and forming a family extremely frustrating and difficult. Without the benefit of maternity protection enjoyed by local women, migrant women find themselves at an added disadvantage even before the birth of their children.

The Labor Standard Act guarantees maternity protection for women workers during pregnancy, after childbirth, the right to breastfeed and childcare leave for up to a year after childbirth. The law further prohibits pregnant female workers from harmful, dangerous work (Article 65); limits overtime work (Article 69); and restricts taking night and holiday work (Article 70). Maternity leave with full wages guaranteed (90 days paid, 30 days non-paid) and protective leave for female worker who miscarry or have a still birth after 16 weeks of pregnancy (Article 74). The law also prohibits any employer from dismissing a worker during maternity leave and for up to 30 days thereafter.

In many situations, women migrants also suffer from unwanted pregnancies and forced abortions. Very often, due to a hidden and therefore unmonitored pregnancy, miscarriages or premature births do occur. Sometimes abortions are resorted to in order to protect their jobs, which further endanger the workers' health, as she has no time to

recover.

Most women migrants also work and live in poor conditions. When pregnant, this does not change, nor are they likely to be given sufficient rest or better working conditions, which further exacerbates their physical and psychological health. This is further compounded when the government initiates harsh crackdowns on undocumented migrants, further affecting the pregnant women migrants' mental state. It is believed that since 2004, the rise of deformed children and increasing numbers of newborn babies born with diseases were caused by the continuing crackdown and deportation on undocumented migrants.¹⁰ As a result, and owing to the economic and psychological burden a migrant woman faces, pregnancy is no longer a happy or blessed event.

One also has to realize that even if the pregnancy and birth are smooth, life for the new born child and family continues to remain very difficult, in no way reflecting what could be called a 'normal' family life. For most babies born of migrant women, the first burden for the family is economic. Without additional resources, like maternity benefits, the cost of the child is hard to bear. Second, if the status of the parent(s) is illegal, then the child is considered illegal as well by its first month. This leads to the third burden, that of sending the child home to be cared for, but separating mother and child only to ensure that the illegal parents are not penalized in Korea. The following case perfectly illustrates the difficulty as described above:

D, a Filipina migrant worker who entered Korea on a tourist visa, found employment working at factories and restaurants. She married her husband in 2000 who had entered Korea the same way she had. She miscarried her first child and her second was born prematurely. She suffered from high blood pressure, but had to continue to work. It was during her second pregnancy, that acute pains resulted in her having an emergency caesarian in the 37th week in July 2008. Her child weighed only 1.68 kg and the baby was placed in an incubator. However, the cost of the treatment proved unaffordable as her husband earns 1 million KRW (1,000 USD), with their monthly rent at 300,000 KRW (300 USD). They borrowed some money from their relatives to pay for the mother's treatment, which cost more than 5 million KRW (5,000 USD). MUMK was able to provide

¹⁰ The number of treatment cases of newborn babies was 17 in 2004, 18 in 2005 and increased to 33 in 2006.

1 million KRW (1,000 USD) as an emergency fund, but the parents still lacked enough money for the baby's treatment.¹¹

Just by this one episode, one better understand that even though women migrant workers are entitled to enjoy both social insurance and EPS insurance benefits, it does not help with pregnancy. The specific details of its application is described below.

Table 6. Social Insurance and EPS Insurance

| | Types of insurance | Main details | Purchasers of insurance | Applicable to Women Migrant Workers |
|------------------|---|---|--|---|
| Social Insurance | Employment | Providing unemployment benefit in case of losing job temporarily, until they find a new job. Company size of more than one employee is applicable when both employer and worker agreed.(since Jan. 2006) | Employers and Workers shared premium equally | O |
| | Industrial Accident Compensation | Providing treatment and compensation when injured while working, or have an illness caused by work. | Employers | O * Not applicable to women migrant workers in domestic service, construction budget is less than 20 million KRW |
| | Health | Insurance provides assistance only in case of using medical insituions. | Workplace: Employers and Migrant Workers | O * Not applicable if women migrant workers in domestic service |
| | | | Regional: Migrant Workers | O |
| National Pension | Application is based on bilateral agreement between Korea and labor sending country 1) Applicable: Indonesia, Philippines, Sri Lanka, Thailand 2) Possible Exemption: China, Mongolia, Uzbekistan(if they already enrolled in home country) 3) Non applicable: Vietnam, Cambodia, Pakistan, Bangladesh | Migrant workers are not all required to join the program | O | |
| EPS Insurance | Departure guarantee | Insurance purchased at a company with 5 or more regular workers to prepare severance payment | Employers | O |
| | Guarantee | Insurance to guarantee foreign workers against overdue wages | Employers | O |
| | Return cost | Insurance to cover the cost of | Migrant workers | O |

¹¹ Migrant stories at mumk web site at <http://www.mumk.org>

| | | | | |
|--|----------|---|-----------------|---|
| | | returning to a foreign worker's home country when he or she leaves Korea | | |
| | Casualty | Insurance to cover casualty, disease, or accident other than an occupational accident | Migrant workers | O |

Source: Table composed based on information of Ministry of Labor and Cultural Guidebook for Migrant Workers in Korea (Ministry of Culture and Tourism).

3. Government Health Policy for Migrants

Since the adoption of the EPS in 2004, the Korean government health policy for migrant workers can be described as a recognition of the right to health of documented migrants, but only emergency medical care for undocumented migrants. The first immigration policy meeting held on May 26, 2006 included the protection of basic human rights, such as education and health as basic principles. Following are some migrant health related policies instituted since 2000.

1) National Health Insurance program

Korea has a National Health Insurance (NHI) program that covers the whole population as a compulsory social insurance system. Its main sources of finance are contributions from the insured, along with government subsidies. Under the NHI, there are two different types of health insurance; one is workplace health insurance (premium paid by employer and employee) and the other is a regional health insurance program (premium paid by insurer). Since August 17, 2004, the Korean government enforced enrollment of health insurance to legally employed migrant workers as well. Beginning from January 1, 2006 foreigners employed in Korea, and overseas Koreans living in Korea, were mandatorily covered by the NHI program receiving the same benefits as Korean citizens. Those who had registered as foreigners, or overseas Koreans who had reported domestic residency, are allowed to make an application for enrollment to the NHI program.

However, since July 2007 the government moved that overseas Koreans or foreign migrant workers, who already had access to other forms of health care, could apply for an exemption from joining the otherwise compulsory NHI program. By allowing for this exemption, however, the question is raised as to whether migrant workers access to health care could be weakened in some systematic way.

2) Health Management Guide for Foreign Migrant Workers

The Korean Centers for Disease Control and Prevention (KCDCP), under the Ministry of Health, Welfare and Family, released a Health Management Guide for Foreign Migrant Workers in August 2000. This was done through 16 provinces and cities and reached out to 242 public health centers. The guide introduced health care services to migrant workers regardless of their legal status. Since the guide was released, public health centers now provide free checkups and vaccinations to migrant workers and migrant children.

In practice, however, this is not the case. In June 2008, MUMK received several reports that some public health centers refused to provide immunisation to migrant children due to their legal status. In its investigation, MUMK enquired whether information in this regard had been suspended or modified and questioned the government position on immunization policy through an open letter. The KCDCP replied that there was no suspension or modification of the guide, but that the implementation of the guide was the responsibility of the local government to enforce, and was being implemented in a preventive manner to protect local citizens. To follow up this, MUMK staff have scheduled a meeting with center staffs on 8 September.

3) Act on Emergency Medical Care

The Act was legislated in 1994 allowing the government to pay the medical fees of certain patients in emergency cases. Revised in July 2000, it was then made applicable to migrant workers. This modification not only helps migrant workers, but medical institutions as well. However, hospitals are reluctant to submit an application to the Health Insurance Review Agency due to the long drawn process involved in acquiring reimbursements of medical expenses.

4) Free Medical Program for Marginalized Groups, including Migrant Workers

Since May 2005, migrant workers can receive up to 5 million KRW (5,000 USD) for emergency medical care, including hospitalization or surgery. This is the first time the government has agreed to cover expenses for surgery, hospitalization and expensive treatments for undocumented migrant workers, as well as the local homeless. The list of recipients of the program was then extended, since June 2006, to children of undocumented migrant workers, foreign female spouses of intercultural marriages before naturalization, and their children who were not eligible for any existing health care services.

Medical coverage expenses also increased from 5 million KRW (5,000 USD) up to 10 million KRW (10,000 USD). If the total amount of the hospital treatments reached over 10 million KRW (10,000 USD), the government would shoulder 80% of the amount, while the patient would pay the balance. Although through this scheme the government provides emergency medical treatment for undocumented migrants, the applicable medical institutions are restricted, and applications are reviewed through a complicated process. What is more serious, is that even if the program were run by the government, there is no certainty for continuing due to financial insecurity.

4. Recommendations

What concrete recommendations can be made based on the above narrative as a basis for policy change in Korea?

I think that the data and cases encountered by MUMK demonstrate that women migrant workers' right to health is not fully exercised and, has in many instances, even been violated. Recognizing the right to health as a fundamental human right, this is an area which is woefully behind both national and international standards.

It is essential therefore to make recommendations to further protect and promote women migrant workers' right to health in order to ensure that even the basic standards are met, and more importantly, enforced. Therefore the following are recommended:

1) Law Enforcement with Non-Discriminatory Principle

To promote and protect women migrants' health, especially reproductive health, including and strengthening legal enforcement of maternity protection. Educational support and information on what is available must also be provided for both women migrants and employers.

To ensure that there is a non-discriminatory principle at work. That penalties be imposed if health screening processes become show bias against migrant workers, in light of the ban on restrictions of local workers.

To ensure that migrant workers are not subject to additional psychological and mental traumas due to their living and working conditions, that there should be an increase in the total amount of health care services, along with an improved legal and social environment.

2) Actualization of National Health Insurance Program

Women migrant workers working in such service sectors as domestic helpers, care givers and restaurant workers, are not eligible for workplace health insurance, but for regional health insurance program. Under the EPS, they are only entitled to benefit from casualty insurance, where workers pay their own premiums. They are not covered by industrial accident compensation insurance, as labor laws do not protect their workplace. Casualty insurance covers illness and minor accidents, but not those that can be classified as occupational accidents. According to the statistics of MUMK, pregnancy, deliver and illnesses form the highest proportion of migrant women workers' concerns. Women workers, particularly in the service sectors, do not really get adequate coverage due to the high cost of medical expenses, as their needs are not met by casualty insurance.

Although migrant workers may benefit from some type of health insurance, actual utilization is still questionable. According to the state of foreigners' enrollment in the NHI, only about 50% (out of 437,010 workers) were members as of May 2007.(Table 7)

Table 7. Number of Foreign and Overseas Korean Insurers by year

| | | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007.05 |
|------------------------|-----------|--------|--------|---------|---------|---------|---------|---------|
| Foreigner | Regional | 25,675 | 34,103 | 38,043 | 47,875 | 55,238 | 55,371 | 62,289 |
| | Workplace | 40,878 | 45,108 | 86,723 | 156,444 | 143,844 | 198,119 | 214,856 |
| Overseas Korean | | | | 10,789 | 14,261 | 16,116 | 19,618 | 20,649 |
| Total | | 66,553 | 79,211 | 135,555 | 218,580 | 215,198 | 273,108 | 297,794 |
| D3(Industrial Trainee) | | 29,104 | 26,219 | 42,186 | 55,107 | 34,471 | 65,312 | 67,709 |
| E8(Trainee Employment) | | 3,067 | 2,002 | 6,742 | 7,134 | 32,616 | 13,753 | 9,942 |
| E9(Non-Professional) | | | | | 47,661 | 22,915 | 48,699 | 56,844 |

Source: National Health Insurance Corporation

Furthermore, it has been discovered that even if regional health insurance programs were applicable to legally employed migrant workers, many refused to join

due to the high premium (currently about 50,000 – 60,000 KRW (50-60 USD) per month) that they were responsible for. This is true also for ethnic Koreans holding foreign passports with H-2 visa status. Even though eligible for regional health insurance programs, they too face the same financial concerns as other migrant workers of other nationality.

It is therefore recommended to lower the premium of regional health insurance programs, thus encouraging migrant workers to enroll. This should be followed by making regular health and medical checkups and immunizations more accessible, particularly to migrant family members. More health information should be made available at the workplace and living areas of migrant workers, and greater work must be done together in collaboration with migrant support organizations to improve the state of health of migrant workers.

3) Establishing Mental Health Services

In Korea, there has been an ongoing advocacy work for comprehensive health and welfare policy and programs for migrant workers, including mental health services. Yet we have found that primary health care programs for migrant workers focus more on checkups and treatments. That is, there is nothing associated with preventative medicine or care, which is particularly important when it comes to mental health services. Not only are there so many adjustments due to living in a foreign culture and environment, but life-style, language, food and working habits add an extra strain on adaptation. Most migrant workers do so in order to better provide for their families than they would be able to do had they stayed in their home countries. Yet the issues of adaptation are hardly considered when discussing health issues. It has been found that in spite of the length of stay within a foreign country, if there is an inherent discriminatory attitude in the host country, along with a lack of a good support system, then migrant workers are still susceptible to long term problems including alcoholism and mental illness.

4) Establishing a Responsible Post for Comprehensive Health and Welfare Policy for Migrant Workers

The Ministry for Health, Welfare and Family Affairs is the main government agency responsible for the general health care of migrant workers, as well as for multicultural families. In spite of this, there is still no post entirely responsible for

formulating a comprehensive migrant health and welfare policy. Currently there are different sections taking care of different aspects of migrants' health concerns. The Division of Multicultural Families under the Bureau of Aging Society and Population Policy supports foreign female spouses of intercultural marriages, while the Division of Public Healthcare under the Office of Healthcare Policy provides free medical programs for undocumented migrant workers, and the Korean Centers for Disease Control and Prevention provides vaccination and primary health care through public health centers.

Divided tasks and concerns of the Ministry reinforces migrant workers as a segmentation of the population, marginalized and foreign, sometimes even carriers of disease. There is no sense of personhood in this recognition and therefore, when there are issues and concerns relating to migrant health, no one within the Ministry feels responsible to fully commit a well thought out response. This is one area of advocacy on which MUMK is particularly focused.

We have raised this issue at a public forum organized by MUMK on the occasion of unifying the migrant labor system as EPS from January 2007. The major concerns raised were: establishing an integrated medical system for migrant workers' health and welfare in line with the unifying migrant labor system; creating a position entirely responsible for the 'health policy for foreign residents', including migrant workers' occupational safety and health; and establishing integrated medical system available to migrants in collaboration with partner NGOs.

Conclusion

It is now inevitable to employ foreign migrant workers for the economic sustainability of Korea. Therefore, it should also follow that migration and population policies and relevant social protections should not only be formulated in responding to a local aging population and low birth rate, but also be more inclusive with a long term perspective.

In Korea, economics and population have long been linked. Unfortunately the government seems to have forgotten its own successful family planning campaign during the 1960s and 1970s that lowered the Total Fertility Rate from 6 in 1960s to 2.83 in 1980, and 1.59 in 1990. Family planning was then carried out under the National Economic Development Plan (from 1962 to 1981), which emphasized that an overpopulated country could not become an economically advanced state. When the

birth rate subsequently dropped to 1.08 in 2005, the lowest rate in the world, the government had to revise its policy and promote childbirth!

The point is not that the family planning campaign was the only factor contributing to a lower birthrate. Rather, the linking of population and economic prosperity, which put a development paradigm first, often at the sacrifice of other sectors. Therefore current overlapping and inclined government programs towards foreign female spouses in intercultural marriages can also be criticized from this perspective, as not genuinely welcoming, but instead viewing them as tools for increasing population.

In conclusion, women migrant workers' right to health which is directly related to people's lives and is a basic human right for preserving human dignity and worth, has to be implemented and enforced within a human rights framework and not sacrificed for economic value. The only result can otherwise be an entire population responsible for the perusal of a shortsighted government policy in the name of economic expediency.

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