

Protect the Rights of Migrant Workers in South Korea

Background

The Republic of Korea (South Korea) became the first labor-importing country in Asia to seek to protect the rights of migrant workers when it introduced the Act Concerning the Employment of Migrant Workers (EPS Act) in August 2003.¹ As of 2006, there are around 420,000 migrant workers in South Korea, of whom at least 186,000 are irregular migrant workers². Migrant workers in South Korea come from South and Southeast Asia as well as Eurasia, including Bangladesh, Cambodia, China, Indonesia, Mongolia, Pakistan, Philippines, Sri Lanka, Thailand, Uzbekistan, Vietnam, Nepal, Russia, Kazakhstan, and India.

Migrant workers: issues and concerns

Despite the introduction of the EPS Act, migrant workers, both regular and irregular, continue to face discrimination in the work place and abuse by employers and state officials. They are vulnerable to a gamut of human rights abuses including withholding of payment, confiscation of identity documents, including passports, visa papers and identity cards, verbal and physical abuse and denial of access to health insurance and medical attention. Migrant workers are typically engaged in dirty, dangerous and difficult work for which they receive little or no training and face discrimination in wages compared to South Korean nationals.

Women, who constitute roughly one-third of all migrant workers in South Korea, are particularly vulnerable to exploitation such as discrimination in wages compared to their male counterparts, sexual harassment and violence. Lack of mandatory health insurance affects women migrant workers who may become pregnant but cannot afford to pay for appropriate treatment or regular check-ups. Reports suggest that even after miscarriages many migrant women continue to undertake the same heavy workload they did before becoming pregnant. Many women who have experienced sexual violence claim that they were threatened by their employers with forcible return to their home country if they reported the incident.

Migrant workers in South Korea often work long hours on machinery with little or no training. Others work with dangerous chemicals with inadequate protective equipment or safety training. When workplace accidents happen many migrant workers are reported to have received inadequate medical treatment and compensation. In some cases, employers of injured workers have refused to renew contracts, thereby denying them the right to stay in the country legally; compelling many of them into an irregular status. The Ministry of Labor has stated that all migrant workers, including irregular workers, are eligible to benefit from the industrial accident compensation scheme however this right has been denied in many cases.

New developments

Since November 2003, the South Korean government has implemented a series of crack-downs to arrest, detain and deport all irregular migrant workers. AI has received persistent reports of poor conditions below the Standard Minimum Rules for the Treatment of Prisoners. There are

¹ The EPS Act provides legal permission for migrant workers to stay in South Korea. The EPS Act prohibits wage discrimination, recognizes migrant workers' right of access to a system of redress against employers in cases of overdue wages or industrial accidents, and recognizes the right to access national health insurance. However, the EPS Act has fallen short of meeting these provisions in practice.

² An irregular migrant worker is someone who does not have legal permission to remain in a host country.

also reports of abuse by security personnel in detention facilities used to detain migrant workers pending deportation. AI delegates found male guards watching CCTV that monitored women detainees and a nationwide survey in 2006 found that 5% of female detainees claimed to have been sexually abused by immigration authorities during body searches. The average length of detention of migrant workers appears to be prolonged, which in many cases makes this detention arbitrary with many being detained for much longer than the legally permissible 20 days. Hygiene conditions and ventilation are very poor and many detainees are kept in spaces much smaller than the 6.1m² decreed by the Ministry of Justice in 2006.

These poor conditions became tragically evident in a recent (12 February 2007) fatal fire at the Yeosu Detention Center that left 10 dead and around 17 others injured. When the fire broke out the fire alarm system failed, the sprinkler system did not work, there were fewer guards on duty than required in law and the guard closest to respond to the fire did not possess a key to open the cells for the detainees. The fire raises serious concerns regarding the safety of other detention facilities throughout South Korea. It is feared that the investigation into the fire is not addressing the lack of legal safeguards to ensure the installment and enforcement of full health and safety measures in all detention centers and means of enforcement, including the number of guards on duty and training of all staff in health and safety procedures.

Read the full report:

“Republic of Korea (South Korea): Migrant workers are also human beings.”
<http://www.amnestyusa.org/document.php?id=engasa250072006&lang=e>

Take action now:

Fax, write or send an email to the Minister of Justice highlighting your concerns regarding conditions in detention facilities and urging the South Korean government to make improvements, with particular emphasis on the recent fire at the Yeosu Detention Center, and the need for a full review of health and safety procedures in all detention facilities.

Send your letters to:

Minister of Justice Kim Sung Ho
Gwacheon Government Complex
Jungang-dong 1, Building 1
Gwacheon, Gyeonggi-do 427-720
REPUBLIC OF KOREA
Fax: 82-2-503-3535
Email: parkmj@moj.go.kr

A sample letter has been provided below, but please be encouraged to add your own thoughts.

Sample letter

Dear Minister of Justice Kim Sung Ho,

I am writing to express my grave concerns about conditions in detention facilities in South Korea for migrant workers, including access to medical care and health and safety procedures and systems.

Amnesty International is deeply concerned by reports of poor conditions and of abuse by security personnel in detention facilities for migrant workers in South Korea. By law, detainees should be held for no more than 20 days yet in practice, one in five migrant workers face prolonged detention. Some detainees are held in severely overcrowded conditions well below the 6.1m² decreed by the Ministry of Justice, the air quality in cells is poor due to overcrowding, lack of windows and poor ventilation, and detainees are not given adequate, if any, opportunities to exercise.

Women migrant workers held in detention facilities are particularly at risk of abuse by security personnel. On a research mission in 2006 Amnesty International delegates found male guards watching CCTVs monitoring women detainees and women have reportedly been searched by male guards on being admitted to detention facilities.

Instead of ensuring protection against such human rights violations, the EPS calls for the return – voluntary or forced – of irregular migrant workers. This collective expulsion of irregular migrant workers from South Korea ignores the requirement of ensuring that effective procedural safeguards are in place prior to deportation and could expose migrant workers to the threat of *refoulement*. The fundamental principle of *non-refoulement* requires South Korean authorities to ensure that no one is returned to a country where there are substantial grounds for believing that he or she would be in danger of being subjected to torture or other serious human rights violations.

I strongly urge the South Korean government to:

- Ensure that conditions at detention facilities and the treatment of women are consistent with the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
- Takes steps toward a comprehensive and timely investigation of the fire at the Yeosu detention facility with a view to identifying all failures in the health and safety measures including equipment, procedures and training of on-duty staff, that are needed to ensure that such a tragedy is not repeated and develop procedures for implementing the enforcement of such measures at all detention facilities in South Korea
- End the systematic practice of detaining migrant workers prior to expulsion, recognizing that such detention could be prolonged or even indefinite in character.

Yours sincerely,