

# Current Conditions, Problems and Solutions of and for Foreign Agricultural Workers

## I. Introduction

Movement between countries is currently restricted due to the corona pandemic, which causes many difficulties in introducing foreign workers into the labor force.<sup>1</sup> In particular, rural areas in Korea are undergoing serious changes that make farming impossible without the assistance of foreign workers. Farm household populations are declining and the proportion of the elderly is increasing. The farm household population decreased from 3.11 million in 2009 to 2.31 million in 2018. The proportion of farm households aged 65 and over rose by more than 10% from 34% in 2008 to 45.8% in 2019.<sup>2</sup> Despite this stagnation of the agricultural industry, the supply of food through agriculture is a security issue that is directly related to the survival of the people and cannot be neglected.

Currently, the only official channels for hiring foreign workers for rural areas are the Employment Permit System (EPS) and the Seasonal Workers EPS. If foreign workers are to be introduced into agriculture, the current system is not adequate for supplying the necessary manpower in a timely manner because there are many small farms requiring seasonal work. The current processes are limited in their ability to resolve the shortage of labor in rural areas, and for this reason, especially in the case of crop cultivation, illegal foreign workers used in the busy season account for 90% of manpower. In 2019, before the outbreak of the corona pandemic, there were 2.52 million foreign residents in Korea, including 390,000 illegal workers. Although the Ministry of Justice knows that the majority of foreign workers engaged in agricultural crop cultivation are illegal immigrants, they generally do not implement any crackdown or deportation measures because they realize it is impossible to farm without them.

On December 20, 2020, on a cold winter day, the death of a foreign worker from Cambodia living in a greenhouse accommodation on a farm in Pocheon, Gyeong-gi province was widely reported in the media.<sup>3</sup> This incident resulted in an exposure of the poor living conditions of foreign workers engaged in agriculture, which is emerging as a social problem. In addition, Korea faces an urgent need to resolve the shortage of manpower in agriculture, and the government has taken no action, despite the fact that large numbers of illegal foreign workers are used in agriculture. In recognition of this reality, I would like to examine in detail the current conditions and problems, and suggest plans for improving the current foreign workers employment systems in the agricultural field.

## II. Current Employment Systems for Foreign Agricultural Workers

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<sup>1</sup> Ministry of Justice, “Guidelines for Temporary Seasonal Work Permit System for Foreign Residents in Korea”, April 19, 2021.

<sup>2</sup> Um, Jinyoung and 7 others, “Policies for Utilization of Foreign Workers in accordance with Changes in the Agricultural Employment Environment”, Korea Rural Economic Research Institute, Oct. 2020. Page 3.

<sup>3</sup> KBS Internet News, “Sudden death of a foreign worker on a cold winter day”, December 23, 2021.

In 2019, the number of non-professional workers (E-9) and overseas Korean workers (H-2) engaged in agriculture through the Employment Permit System was 31,378, and the number of short-term residents (C-4) through the seasonal workers EPS was 3,600.<sup>4</sup> In the case of livestock and greenhouse farming, it is possible to introduce an EPS that requires employment for more than one year, providing a stable workforce. However, in the case of crop cultivation agriculture, the long-term employment system EPS is not compatible with the requirements of small farm households and the need for seasonally-intensive employment.

#### 1. Employment Permit System (E-9, H-2)

This system has been in effect since 2004, and has allowed non-professional foreign workers from 16 countries to work in Korea. The introduction of a non-professional worker grants a status of stay for 3 years in accordance with the Foreign Employment Act, and may be used for an additional 1 year and 10 months. Many of these people work in so-called ‘3D’ industries (Dirty, Dangerous and Demeaning) where Koreans are reluctant to accept employment. Workers who enter the country under the EPS sign a three-year contract with a specific employer and are strictly prohibited from moving to another workplace unless there are special circumstances. Employment of foreign workers is limited to cases in which employers have made an effort to hire domestic workers through the job centers of the Labor Ministry, but were unable to do so. These conditions are applied to the fields of manufacturing, construction, and agriculture, but not the service industry. Overseas Korean workers are also used as non-professional workers and are employed in almost all industries, including the service industry, with guaranteed freedom of movement and stay for 5 years.<sup>5</sup>

Livestock or greenhouse cultivation requires continuous employment, so it’s possible to use the EPS to employ foreign workers for long periods of time. However, in the case of crop-cultivation agriculture, it is difficult to use foreign workers on a regular basis because demand is concentrated in April-June and September-October.<sup>6</sup> In recognition of these characteristics of agriculture, an additional system which allows foreigners to work at places other than with their exclusive employer during the non-busy farming season has been introduced. This additional workplace system allows foreign workers to work for another agricultural employer during their off-season while maintaining an employment relationship with their original employer.<sup>7</sup>

#### 2. Seasonal Workers EPS (C-4, E-8)

The Seasonal Workers EPS was introduced in November 2014 to solve the manpower shortage in the agricultural sector only during the busy farming season. Each local government coordinates the Seasonal Workers EPS and supports farmers in their efforts to hire and utilize seasonal foreign workers twice a year (spring and autumn) for a short period of 5 months or less. This is gradually expanding as a method for local governments to help solve

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<sup>4</sup> Um, Jinyoung and 7 others, page 38 of the above paper; JoongAng Ilbo, “Foreign workers enter one after another. In rural and fishing industry, ‘Corona manpower shortage is solved.’ June 18, 2021, page 18.

<sup>5</sup> Jung, Bongsoo, “The Employment System of Foreign Workers,” Ajou University Ph.D. thesis, Feb. 2018, pages 32-37.

<sup>6</sup> Um, Jinyoung and 7 others, page 59 of the above paper.

<sup>7</sup> Um, Jinyoung and 7 others, pages 112-114 of the above paper.

the labor shortage of farmers who require additional workers. Although the Seasonal Workers EPS has many advantages, it is not easy to introduce large numbers of foreigners at the right time, and it is difficult for small and poor farmers to directly hire such seasonal workers.<sup>8</sup>

### 3. Use of illegal foreign workers

In crop cultivation agriculture, 90% of all foreign workers are illegal immigrants - this employment of illegal foreign workers has become normal and routine.<sup>9</sup> The reasons why farmers use illegal foreign workers are: First, the farmers are not large enough to hire foreign workers for long terms because their crops are small. Second, in the case of crop cultivation agriculture, there is no opportunity for continuous employment as the work is divided into the busy season and the off-season. Third, there are private manpower agencies for foreigners who fulfill their requirements with just one phone call. Illegal foreign workers are in a blind spot for human rights protection because they do not receive benefits such as protection from unpaid wages, health insurance, and industrial accident compensation insurance.

## III. Problems

### 1. Difficulty in employing foreign workers

(1) The shortage of manpower in rural areas cannot be solved with the Employment Permit System, which was designed for hiring non-professional workers. Mechanization and informatization of agriculture are accelerating, and it is becoming necessary to train professional farmers, but the current short-term rotational EPS may not be suitable for this, considering that a foreign worker has to return to his or her home country after becoming familiar, to a certain extent, with operating machines and growing crops.

(2) Foreign workers want a stable income, but in the case of agriculture, there is a strong tendency for foreign workers to move from crop cultivation to greenhouse cultivation or livestock farming because their income is not guaranteed due to the variance in busy seasons and off-seasons. Therefore, in consideration of the characteristics of the work, dual employment systems in agriculture have become necessary. Industries that require year-round employment need the current EPS, while a Seasonal Workers EPS and a foreign workers dispatch system are needed as countermeasures to deal with the busy farming season.

### 2. Limitations on the introduction of seasonal foreign workers

The Seasonal Workers EPS, which is a method for hiring foreign workers, is utilized in exclusive support of local governments. The basic working conditions are limited to following mandatory duties for wage payment, written labor contracts, and the coverage of an industrial accident compensation insurance. This is a very positive system for crop cultivation agriculture that needs to be activated to cope with the manpower needed during the busy

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<sup>8</sup> Lee, Seong-Soon, "Operations and Issues of the Foreign Seasonal Work Permit System in Agriculture," Multicultural Contents Study 36, 2021. pages 168-174.

<sup>9</sup> Um, Jinyoung and 7 others, pages 74 & 95 of the above paper; Hankyoreh paper, "Farmers in Gyeongnam province are about to give up harvesting Garlic and Onions", June 6, 2021.

farming season. However, since it is used for a short periods of time, immigration costs are high, and it is difficult for small farms to use, which limits the benefits of this system.<sup>10</sup>

### 3. Employment of illegal foreign workers

Although the Employment Permit System attempts to meet the demands of agriculture by supplementing the systemic problems of the EPS with the addition of other workplaces, it is not being activated to its full ability due to the complicated rules of the system, job insecurity for foreign workers, and possible violations of the Labor Standards Act. Many farmers have used Seasonal Workers EPS during the busy season through its introduction system, but this has not been widely accessed yet. The Seasonal Workers EPS is introduced and subsidized by local governments, but as farmers need to hire those foreign workers directly as their employees, it is not an easy system to use because only farmers of a certain size can afford to hire and use them.<sup>11</sup> For this reason, about 90% of farm households use illegal foreign workers. Because of this use of illegal immigrant workers, not only do the individual expenses of farms increase, but the human rights of illegal foreign workers are also not properly protected.

## III. Suggestions for Improvement

### 1. Stable employment of foreign manpower

To secure a stable foreign workforce, overseas Korean workers should be utilized. To secure sufficient agricultural manpower, it is necessary to induce the settlement of overseas Korean workers in agriculture by simplifying the Visiting Employment (H-2) visa and granting them the qualifications of long-term stay overseas Koreans (F-4) or shortening the period required to obtain permanent resident status (F-5) so they can engage in the agricultural field for long periods of time. As overseas Koreans speak the Korean language, easily integrate into Korean culture, and have high acceptability in rural areas, such policies need to be actively and widely promoted.

In order to supplement the shortage of rural manpower in the corona disaster environment, illegal immigrants should be legalized through temporary work permit visas. The number of illegal immigrants is approaching 400,000 in 2021, and it is understood that many of them work in rural areas.<sup>12</sup> While granting them legal work-visa status, it is also necessary to protect their human rights while we solve the shortage of manpower in rural areas. In addition, a flexible operation of the immigration system, similar to the long-term residence system for agricultural foreign workers, is required. Inducing skilled foreign workers to stay for a long time is necessary to solve the shortage of manpower in rural areas. This makes it necessary to create an appropriate environment for long-term stay, such as applying the extended period of stay for agricultural foreign workers or issuing professional

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<sup>10</sup> Lee, Seong-Soon, pages 168-174 of the above paper.

<sup>11</sup> Jeon, Yun-koo, "Intermediate Exploitation of Foreign Workers Utilization System in Agricultural Sector – Additional Workplace System of Employment Permit System", Labor Law Review, 48, April 2020, pages 186-190; Lee, Seong-Soon, pages 168-174 of the above paper.

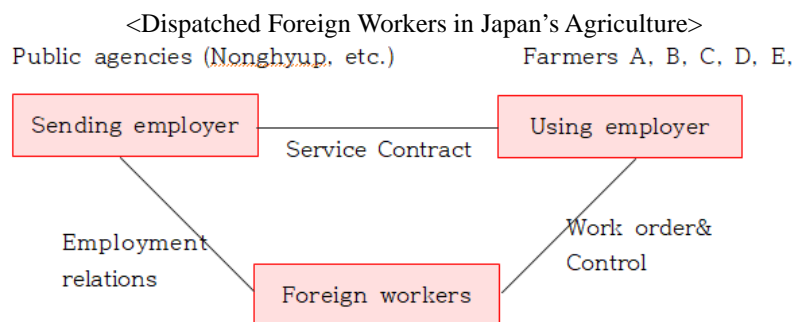
<sup>12</sup> Ministry of Justice, 「Statistical Monthly Report of Immigration/Foreign Policy」 February 2020.

visas (E-7) for long-term stay foreign workers, even in rural areas, so their family members can also be invited.

## 2. Introduction of a foreign workers dispatch system

This is a method for legally employing foreign workers and utilizing them as dispatch workers through public agencies such as Nonghyup, instead of using the current private manpower agencies. Pertaining to this, I would like to introduce the foreign workers dispatch system in Japan.<sup>13</sup>

Japan enacted the National Strategic Special Zone Act for the Foreigner Introduction Project to support its agricultural industry and has been implementing it in specific regions since September 2017. In the agricultural sector, public agencies like Nonghyup operate the foreigners dispatch, provide an employment contract with foreign workers, and allocate them to the farmers. This project was designed to reflect the seasonality of agricultural labor and send dispatched foreign workers to farmers, which means that the farmers can secure sufficient manpower for a short period of time only during the busy farming season.



A farmer draws up a service contract with Nonghyup as the sending employer, and then receives and uses foreign workers. There is no limit to the number of foreign workers that can be accommodated per farm, and the Labor Standards Act applies to such foreign workers as they provide work as dispatched workers. The period of available stay is up to 3 years, which they can use to stay continuously or stay for 6 months only during the busy farming season, returning to their home country during the non-farming season, and then coming back to work and staying for another 6 months, repeatedly up to 3 years. Foreign workers who fall under this worker dispatch must be 18 years of age or older, have at least one year of work experience related to farming, and have practical knowledge of farming duties. In addition, they must be able to read and speak Japanese at a level conducive to daily life (N4 level).

## 3. Improving the living environment

Currently, the rural residence of foreign workers often consists of temporary greenhouses. In response to this, the

<sup>13</sup> Um, Jinyoung and 7 others, pages 149-153 of the above paper.

Ministry of Employment and Labor announced that as of January 1, 2021, if this type of living facility is confirmed, the employment permit will be denied.<sup>14</sup> Rather than requesting the improvement of the residential environment solely on the part of the farmers, the local government or government level in the course of improving the residential environment should play a more active role in subsidizing the building of such living facilities. Since most farmers in Korea operate on a small scale, practically speaking it is difficult to build separate dormitories for each farmhouse. Therefore, consideration of ways to provide a group residence by the local government or the state, or to provide a dormitory building for foreigners in each village for a certain fee. Active support, such as building infrastructure at the local or national level, rather than by individual farmers, is needed so that farmers can attract and employ foreign workers easily whenever necessary.

#### **IV. Conclusion**

We have reached a period in time where agriculture is impossible without the employment of foreign workers, due to the declining status of rural manpower and the aging of the population. It has now become normal for foreigners to reside in rural areas and engage in agriculture. For a stable supply of foreign workers, working conditions and living environments should be created so that they can lead humane lives and enjoy personal happiness. Without these measures, the inflow of foreign workers as an agricultural assistive labor force cannot be guaranteed. In order to create attractive rural workplaces from the perspective of foreign workers, it is urgent that we improve, not only our employment system, but also their working and living environment.

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<sup>14</sup> JoongAng Ilbo, “Rural and fishing villages cannot employ foreign workers without dormitories.” March 2, 2021.