WHY IS THERE NO IMMIGRANT SETTLEMENT IN KOREA?

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A growing body of research has explored the processes and policies associated with international migration. Much of this research has focused on the current era of globalization, where finances, markets, human rights as well as human beings all are said to be crossing borders more easily and rapidly than before (Sassen 1988, Jacobson 1996). Despite the allegedly global scope of much of this research, however, it has shown an obvious Atlantic bias. With the possible exception of Japan, immigration scholarship has mostly ignored other developed nations in the region, such as Taiwan, Singapore and Malaysia. Perhaps most glaring is the lack of inclusion of South Korea (hereafter "Korea") in these analyses, a state that is receiving more immigrants every year to work in its rapidly growing economy (now the 13th largest in the world). Korea, as well as Japan and other developed Asian states, have since the middle 1980s all become significant immigrant receiving nations, thereby reversing their roles as nations sending immigrants to other parts of the world. Korea now receives new workers from China, as well as central, south, and southeast Asia.

Korea has thus joined most of western Europe as non-settler nations, with states that disavow any status of being "nations of immigration," that nevertheless accept significant flows of foreign workers. In Korea, as in Europe, these workers play crucial roles in the economy and will likely do so in the future to even greater degrees.

The numbers of migrants going to Korea are less than those going to European states, but another difference stands out between the two regions. Whereas Europe's cities have developed immigrant enclaves, and are on their way to developing multicultural societies, cities in Korea do not show immigrant enclaves, at least not of the same kind. Seoul, for example, has neighborhoods where foreigners might congregate, but what are missing is the ethnic diversity that comes form immigrant families. Seoul's main neighborhood where foreigners congregate, Itaewon, is still primarily associated with short-term visitors from the West—that is, U.S. military personnel—rather than immigrant settlers, though it boasts at least one mosque and some South Asian restaurants. If Korean cities are home to immigrant families, they are almost always families of co-ethnics, that is, ethnic Korean migrants from China who are returning after years, sometimes generations, spent abroad. And the majority of those intend to return to China.

Why does Korea lack immigrant settlement? A key political or legal difference stands out. In Europe, the unskilled and low-skilled immigrants have been granted at least limited family reunification rights so that they may bring with them spouses, children or parents. With families, especially children, the migrants become immigrants, as they set down roots in the new host territory. This created in Europe large immigrant enclaves, with thousands of non-European non-citizen settlers. In Korea, however, no family reunification rights of any kind have been granted. Workers come to *work*, and they are expected to do only that.

Why is this important? Rights of family reunification are significant enough to be included in the United Nations' International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the General Assembly in 1990

though not ratified yet by many receiving countries.[1] The 1975 ILO Convention (143) and the 1977 Council of Europe Convention both stress family reunification and the belief that "labor is not a commodity" (Gurowitz 1999a). Moreover, rights to family reunification are the first step toward settlement and the beginnings of a multicultural society. The refusal to grant family rights in Asia may indicate the rejection of basic human rights and the maintenance of an alternative modernity, different in philosophy and substance from that in the West (Bauer and Bell 1999). Despite the spread of democracy, therefore, political globalization has certain definite and important limits.

In this paper, I seek to account for this variation. In my analysis, I place Korea within the larger context of east Asia, as it appears that Korea shares with other Asian states a strong resistance to immigrant settlement. I being first with a regional comparison, describing the family rights policies of select nations in Europe and Asia. Second, I examine explanations of immigrant rights in western Europe and test these theories in light of the experiences of Korea and other Asian nations. I argue that theories to explain family rights in Europe do not apply or do not work in Korea, or the rest of East Asia, a fact that may point to an Asian political culture that is different from the West. This suggests that important regional variations persist despite strong pressures from globalization.

FAMILY REUNIFICATION RIGHTS IN EUROPE AND ASIA: AN OVERVIEW

[1] Article 44 states, "(1) States Parties (sic?), recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers; (2) States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children." Article 45 spells out rights for migrant workers' family members

While all western European immigrant-receiving nations have allowed at least some family rights, we focus on Germany and Spain. This is because Germany and Spain maintain *jus sanguinis* laws of citizenship comparable to citizenship laws in Korea and across Asia (Cheng 2003). Spain is an important case because like Korea it has had a history of authoritarian government but has established democracy and a growing economy, now about the size of Korea's (Guillén 2001).

Both Germany and Spain granted family rights to migrant laborers. Germany began to receive guestworkers in 1954, mainly from neighboring European countries, especially Italy, but also increasingly large numbers from Turkey. The original plan was to have the workers stay for only two or three years, but they began to stay longer to meet their savings goals and sent for spouses and children. By the early 1970s, when Germany was attempting to limit the influx of migrant workers in the wake of an economic slowdown, new immigrants continued to come in, most of whom were dependents of foreign workers already there. By 1993, there were about 6.8 million foreigners living in Germany, or 8.5 percent of the population, of which only 2.2 million were foreign workers. Most of the rest were dependents; the much-publicized issue of refugees to Germany brought only about 10,000 persons a year (Martin 1994).

Spain began importing labor much later, around 1985, and had different sources. Immigrants to Spain come mainly from North Africa (especially Morocco), Latin America and Asia (especially China and the Philippines; Joppke 2001). About 1.5 percent of the Spanish population of 40 million are foreign born, and in 1993 there were between 200,000 and 300,000 illegals, even after an amnesty program brought 100,000 into legal status. Approximately 50

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regarding access to schools, vocational guidance and training, health and social services, and participation

percent of the undocumented are from Africa. Spain also grants family reunification rights. In November of 1993, the Justice Ministry issued a regulation allowing non-European Community family heads to bring in their families provided they had a job and housing to support and shelter them (Cornelius 1994a). As stated above, Germany and Spain are more comparable to Asia but are anything but outliers in Europe. Family reunification rights are granted elsewhere in Europe, and non-European settler communities are common.

The pattern is different in Korea. Overseeing a nation of 47 million, the Korean state began importing labor in the late 1980s after two decades of rapid economic development. In the year 2000, Korea had a foreign worker population of at least 240,000, nearly all of who are low-skilled workers.

The vast majority of legal migrant workers in Korea enter through a visa category for industrial trainees that is actually for unskilled workers. About 50,000 of Korea's undocumented workers are former trainees who either fled their sponsoring workplace or overstayed their visa.

Korea offers various visas for skilled workers, based on occupational type, such as education professionals or entertainers. The largest category is the E-2 visa, which is reserved for teachers of foreign languages, mostly English. There were 6,414 E-2 visa holders in Korea in 2000, a relatively large number but one that is not likely to increase substantially in the future and hence will have little impact on Korean society. The "entertainers" category includes primarily women involved in sex work; there were 3,916 of these E-6 visa holders in Korea in 2000, 82.3 percent of whom were women. In 2000 Korea's Ministry of Commerce, Industry, and Energy launched a special "gold card system" aimed at establishing a new, easy-access E-7 visa for software programmers, mostly from India.

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in cultural life, including rights to education of their native language and culture.

Korean immigration policy traditionally has been based on the principle that foreign workers should complement the Korean economy. In practice, this has meant a preference for professionals and technical workers and a ban on unskilled workers. The basic immigration law, the Departures and Arrivals Control Act, or DACA, is strongly oriented toward bringing skilled workers to Korea and preventing foreigners' permanent settlement. Any legal foreigner who wants to work must obtain "sojourner status," and it is illegal for employers to hire foreign workers who do not have this status (J.H. Lee 2002).

The emphasis of Korean law, however, falls most fully on preventing foreign settlement. The Justice Ministry, which includes the Immigration Office and which enforces DACA, does not offer any long-term visa that does not take an applicant's skill level into account. However, closing Korea's "front door" to low-skilled and unskilled workers only created a need for a "side door" for importing foreign workers. In the late 1980s the Korean Federation of Small Business (KFSB) began to lobby for access to foreign labor. In 1991 Korea's Justice Ministry—following Japan—created the Industrial Technical Training Program (ITTP) to meet this need.[2]

Like the Japanese industrial trainee program, the ITTP was ostensibly for teaching and transferring skills to less developed countries. It was originally limited to Korean companies with investments or partnerships with firms in these nations. It also limited trainees to fifty per company or 10 percent of the company's workforce. Only 10,000 trainees were originally admitted for six months of training, with a possible six-month extension.

Nevertheless, domestic small and medium-sized manufacturing employers were still having difficulty filling low-wage, menial jobs, and many were forced, despite the threat of fines, to hire undocumented workers who had overstayed their tourist or short-term visas. The shortage of

workers for low-end jobs was exacerbated in 1992 when the government deported 10,000 illegal workers. Under increasing pressure from the KFSB, the Justice Ministry expanded the ITTP program to allow companies without foreign affiliates to get Justice Ministry approval to import trainees through private recruiting agencies.

The more recent history of ITTP is one of continual expansion in the number of trainees admitted (most to fill low-wage jobs at domestic companies) and their length of stay, along with delayed deportations of illegal workers. The Justice Ministry continues to underestimate the need for foreign labor, necessitating these repeated expansions of the trainee program which tend to follow strong lobbying efforts by the KFSB. There has been comparatively little organized resistance to this typical case of "client politics."

In June 1993 the Justice Ministry extended the ITTP training period to two years, and in November 1993 the number of trainees admitted was increased by an additional 20,000. The ITTP program was operated through a new Korea International Training Cooperation Corps (KITCO), similar to Japan's JITCO. However, whereas JITCO is composed of business, labor, and government interests, KITCO is totally dominated by business in the form of the KFSB. After the Justice Ministry gives permission to Korean firms without foreign affiliates to hire trainees, KITCO has exclusive rights to import and distribute trainees to these companies. The original system of companies with foreign affiliates continues to function outside of KITCO.

Another program expansion occurred in September 1994, when the Justice Ministry allowed another 10,000 trainees to come to work in Korea's footwear sector, which was facing stiff competition from other Asian countries. In January 1996, trainees were allowed to work outside of the manufacturing sector for the first time; the Justice Ministry allowed 1,000 trainees to enter

[2] The Labor Ministry, the prime minister's Committee for Industrial Training, and the Small and Medium Business Administration (SMBA) were also involved in instituting this program, but the major actor was clearly the Justice

the fishing industry, demonstrating clearly that there was no technical training going on in the ITTP. In 1996, the trainee pool was expanded by another 30,000, and the training period was extended to three years. In 1997 the Korea Construction Federation oversaw another expansion, allowing trainees to work in the construction industry.

This system set the stage for Korea's current labor migration problems. "Trainees" under the ITTP program are not in most cases being trained for anything and are only filling menial jobs that Koreans refuse to take. Since trainees are not classified as workers, their pay was considerably below that of even undocumented workers (trainee wages were 59 percent of undocumented workers' wages in 1994 [Seol 1999]), and trainees were not guaranteed worker rights such as the right to unionize and to bargain collectively. Moreover, trainees are behind from the start because of the fees (between US$2,000 and $3,000) they pay agencies in their home countries to obtain placement in Korea.

This exploitative system encouraged tens of thousands of trainees to run away from their jobs and join the ranks of the undocumented. In 1994, undocumented workers' demands for compensation for work-related injuries drew public attention and convinced the administration of President Kim Young-Sam to acknowledge undocumented workers' basic labor rights and to include them under the industrial accident compensation insurance. The administration also ordered the Labor Ministry to monitor labor law violations, including unpaid wages, a mission that sometimes brought the Labor Ministry into conflict with the Justice Ministry. Then, following the 1995 protest by Nepalese trainees at Myeongdong Cathedral, the Labor Ministry, asserting its authority with regard to the treatment of workers already in the country, announced the Measure for the Protection and Control of Foreign and Industrial and Technical Trainees.

Ministry. For more on the history of ITTP, see Seol 2000a.

This ruling required that trainees be paid the government-set minimum wage or more, that they be paid directly by employers, and that they need not surrender their passports to their employers.

In 1997 the ruling New Korea Party (NKP) and the opposition National Congress for New Politics (NCNP) submitted reform bills to the National Assembly to eliminate the exploitative trainee program and replace it with a work permit system. The bills had the support of migrant workers and nongovernmental organizations (NGOs) working for migrants. They were opposed, however, by the KFSB, which staged a rally in front of the federal government complex and claimed that a new law was unnecessary. They noted that even Japan had no such system for migrants. The KFSB carried the day, and the work permit system remains the Holy Grail of reformers in NGOs, academia, and the Labor Ministry.

The Justice Ministry has revised the trainee program in response to criticisms, but it refuses to abandon it completely. In 1998 it eased the exploitative aspects of the program by creating the Work-After-Training Program for Foreigners, which allows trainees who pass a skills test to obtain a visa that allows them to spend their third year of training as workers fully covered by Korean labor law, and the ministry later revised this to allow two years as "worker" after one year as "trainee."

The ITTP program remains overwhelmingly oriented toward manufacturing; in early 2001 the ITTP included 98,000 trainees in manufacturing, compared to only 1,000 each in fishing and construction, even though there is strong labor demand in non-manufacturing sectors. Nearly 56,000 of an estimated 255,000 undocumented foreigners in Korea were working in the construction sector in 2001.

In July 2002 the Justice Ministry initiated several new measures in its constantly changing migrant worker policy. It expanded the overall quota of trainees to 145,500 and increased sector quotas in response to specific labor shortages, raising the construction quota to 7,500 and the fishing and livestock quota to 5,000. The ministry, in collaboration with the Small and Medium Business Administration (SMBA), also created the first labor-importing mechanism not linked to training and reinforced ethnic preferences in the labor migration policy system.[3] Overseas Koreans over the age of forty and with family (cousins or closer relatives) in Korea would receive special two-year visas to work in the labor-starved service industry—supplying cheap labor to restaurants, cleaning companies, and nursing facilities but excluding bars and sex-based "room salons" and karaoke hostess bars. Employers can now hire up to ten overseas Koreans provided they show they cannot find workers domestically. The government expects between 40,000 and 50,000 overseas Koreans to take advantage of the new program (*Joongangilbo*, July 18, 2002; *Korea Herald*, July 18, 2002; *Chosun Ilbo*, July 18, 2002).

The upshot of all of this struggle over basic worker rights and the ending the trainee system is that settlement of immigrants I not even on the agenda, and it is not an issue that even the most progressive NGOs push as a priority. Because there is no settlement in Korea, there are no government policies for settlement or incorporation. Whatever incorporation efforts do exist come not from government but from private organizations, especially NGOs. Approximately 150 groups—most of them religious, predominately Protestant and Catholic groups—work in this area, providing consulting services, educating migrants on their rights and legal protections, and helping to fashion a migrant worker health insurance program. Illegal workers also rely on their own networks of friends for help in finding jobs and housing. To this end, foreigners have set up

[3] Joseonjok were given a separate (and large) quota in the ITTP and, along with Filipinos, were paid higher wages in the beginning of the program, but this wage preference was soon eliminated.

meeting places in Seoul and other major cities where information can be exchanged and new friends added to the networks.[4]

The great exception to all of this, not surprisingly, is policy for North Koreans. Here one finds a policy for settlement, but the numbers are very low, and this is clearly a special case. Though Korea excludes all other applicants for asylum, North Korean refugees (defined as citizens by Korea's constitution) have received generous job training, financial aid, housing, and other assistance. But their numbers are very small; only 900 came from 1980 to 2000 (*Korea Herald*, April 24, 2000).

Though the focus here is on Korea, explanations that seek to explain only Korea's resistance to immigrant settlement might be in error. The fact is that settlement of foreign (non-co-ethnic) migrants is not allowed anywhere in East Asia. Consider the cases of Japan, the most economically advanced state in the region, and Taiwan, which is similar to Korea in economic development.

In Japan, there was a period of family immigration when Japan exploited Korea during its period of colonization. Japan confiscated businesses and farms, destroying livelihoods and forcing some 400,000 Koreans to emigrate to Japan between 1910 and 1938. Many of these were wives and children of laborers. Japan then forced about a million Koreans into labor in Japan during WW II. After the Allies' victory in the war liberated Korea, about 500,000 Koreans, with nothing left in Korea, remained in Japan though they faced severe discrimination there (Cornelius 1994b; Fukuoka 1996).

This family immigration occurred in the context of national subjugation and should not be understood as family rights. Japan has not allowed family reunification of any non-Japanese

[4] In Itaewon, Seoul's foreign district (established primarily for U.S. servicemen and their families), there are restaurants serving *halal* food to the Muslim foreign worker population.

immigrants since World War II. Beginning the 1980s, rapid economic growth had Japan facing labor shortages, especially in the most dangerous, dirty or difficult jobs (the "3D jobs"). Japan began to import labor. Japan granted unlimited immigration to Japanese Latin Americans, or the "Nikkeijin," who are ethnically Japanese (if culturally Latin American). There were about 300,000 Nikkeijin in Japan in 2000 (Tsuda and Cornelius 2004). Despite the need for labor beyond what the Nikkeijin can supply, Japan has instituted no guestworker policy beyond the Nikkeijin program and the trainee program that served as model for Korea. It makes do with visa overstayers, who numbered about 250,000 in 2000, mostly from Korea, the Philippines, China, and Thailand (Tsuda and Cornelius 2004). Foreigners make up about 1.1 percent of the total population (Gurowitz 1999b, 421). As a way to bring in more foreigners without having a guestworker program or allowing family rights, Japan created a worker "trainee" program that ostensibly transfers skills to developing countries. In fact, in return for a basic stipend and housing, the trainees do low-level work while tied to specific small companies for up to two years. Denied the legal status of "worker," they receive only limited health insurance, workers' compensation, other benefits and of course family rights (Cornelius 1994b).

Taiwan, with a population of about 22 million, began importing labor in the early 1990s. By 1999, it had nearly 300,000 workers, mostly from Thailand, the Philippines and Indonesia (Cheng 2003). Taiwan did not follow the "trainee" policy of Japan but instead a modified work permit system, based on Germany but in its tighter regulation is more closely linked to Singapore. In the Taiwanese policy, workers come into Taiwan with employment permits that tie them to specific companies; they are not free to move to other jobs. Though having the legal status of "workers," this tie to a workplace is similar to the trainee system of Japan and Korea. Reflecting health concerns that have framed the immigration issue there, workers must pass a

physical examination. The employment permit can be renewed annually for a total of three years (Seol 2001). Except for the skilled professionals, who are always the smallest group and in a separate track, none of them had the right or opportunity to bring in spouses or children; in fact, they were not allowed to marry Taiwanese and females faced deportation should they become pregnant.

MIGRANT WORKER FAMILY RIGHTS: EUROPE AND ASIA COMPARED

How are we to explain these regional variations? In this section, I consider four prominent theories used to explain family unification rights in the West.

Client politics

One explanation for migrant worker family rights emphasizes collective action dilemmas inherent in some interest group politics. Borrowing from James Q. Wilson, Gary Freeman argues that in the United States especially but elsewhere as well immigrants win rights because their advocates—mostly migrant worker NGOs, some labor unions and religious groups—are highly motivated to fight for reforms that will concentrate benefits on this disadvantaged group. While opposing new benefits or rights, the unorganized public goes along with the new policies. Their development has a minimal per capita influence on citizens; thus they do not mobilize to fight. The result is expansive policies for immigrants and mass populaces who grumble (Freeman 1995). Joppke (1998) makes a similar argument for Germany immigration politics before 1973 (that year's economic downturn changed the dynamic from client politics to "national interest politics"). Jacobson (1996), while not making the link to client politics, also

emphasizes the role of domestic groups in winning family and other rights for migrants in Germany.

Should we expect client politics to work in Korea? As Pempel has argued, Asian democracies now provide regular free elections, universal suffrage, free expression, and protection against arbitrary state actions, though they still show problematic characteristics such as the tendency toward one-party rule (Pempel 1999, 372-73). Though perhaps less open to interest group demands, in Asia a similar pattern of interest group activity holds, but in Korea, as well as Japan, the interest groups have simply not asked for family rights. In Korea and Japan, the demands of migrant rights NGOs and their labor union or religious allies are for other benefits, such as health care, workers' compensation, and rights to organize (Gurowitz 1999b; Asian Migrant Centre 1999). In Korea, the most powerful client is the Korean Federation of Small Businesses, which shows no interest in allowing family rights or even creating longer stays for workers (Seol, Skrentny and Lee 2002), as did businesses in Germany (Jacobson 1996). Taiwan shows a similar robust interest group activity (Hsiao 1992; Weller 1999, 7), but NGOs have not succeeded in changing its severe immigrant family laws (Asian Migrant Center 1999). The government Council of Labor Affairs attempted but failed to eliminate the rule forbidding migrants to marry locals. The failure to change even this rule is surprising since it would not allow family reunification and is in the interest of many Taiwanese, especially rural men, who desire foreign brides (Cheng 2003).

Domestic constitutionalism and court power

Both Hollifield (1992) and Joppke (1998) focus their explanations of migrant rights on "liberal states." They emphasize liberal legal institutions, such as rule of law, constitutionalism and

judicial review as counter-majoritarian forces for rights. Especially in Germany as well as the USA, there was a tendency of courts to side with immigrants in their interpretation of constitutions and statutes to prevent deportation of immigrants and ultimately to grant family rights.

While Korea may not be a liberal state completely analogous to those in western Europe, Korea has a Constitutional Court (Ginsburg 2003) that has gone against the government on occasion in supporting rights for women and other disadvantaged people. It has most recently struck down an immigration law that granted preference to overseas Koreans who emigrated after 1948, when the Korean government was established. This excluded those in poorer countries, such as China, Kazahkstan and Uzbekistan, who now come to Korea as trainees (*Korea Herald*, December 10, 2001). Korean courts, however, have found no family rights for migrants in the Constitution or in statutes. In fact, all three of the east Asian states in question here are all democracies and have strong court systems. Though Taiwan may have the most difficulty in this area (as Cheng [2003] points out, there is a wide gap between laws as written and as implemented by a surprisingly autonomous bureaucracy), Gurowitz (1999b) shows the courts playing a leading role in Japan in furthering migrant worker rights, but making no moves toward family rights. For example, Japanese courts now read the Constitution's article 25 ("all *kokumin* [people] shall have the right to maintain the standards of wholesome and cultured living") to apply to both nationals and aliens. The Japanese courts have not found wholesome living to include family living. In short, strong courts, the hallmark of liberal states, exist in east Asia but do not grant family rights. Their absence cannot be the explanation for the lack of family rights in Asia.

Colonialism and relations with sending states

Another potential explanatory factor in policymaking is the relationship between migrant sending states and the receiving states. In some cases, there are special and long-running relationships between colonies and their former masters, as with Britain and France and their colonies. It is no coincidence that most of the migrants to Britain are from former colonies, especially India and the West Indies, and France is home to many Algerians. The desire to maintain strong relationships leads to friendly state-to-state relations and this cordiality extends to rights for the migrants (Messina 1996). For Germany and its Turkish workers, the fact that the Germans *invited* the Turks led to a moral obligation to not treat them harshly and to even offer expansive rights for the workers (Joppke 1998). Spain, interested in maintaining relations with what it refers to as its "historical and cultural community," gives special consideration to immigrants from Latin America and the Philippines (Cornelius 1994a; (Joppke 2005).

Though these inter-state ties may be important factors in allowing for migrant worker rights, in no case have European nations limited family rights only to those nations with whom there is some relationship. Moreover, however this dynamic may have worked in western Europe, there is not even a hint of it in Asia. There, though progress has been made, the colonial power (Japan ruled Korea and Taiwan for most of the first half of the 20th century) has remained a violator of the rights of Koreans and offers no special opportunities for Taiwanese to come to Japan. Both Japan and Korea now work out special arrangements with immigrant-sending states, but apparently the ruse that the workers are being "trained" to take their skills back to their home countries satisfies their moral obligations to these workers. There also is no evidence also of the sending states making an issue of rights denials. Happy to receive billions or millions of dollars in remittances (for example, in the Philippines this money represents an estimate 19 to 25 percent

of the GNP and labor is the country's greatest export), their pressure is mostly on the issue of having workers admitted, not being treated well once inside.[5] Major labor exporters in Asia such as the Philippines, Bangladesh, Sri Lanka and Nepal simply do not make demands regarding family reunification (Selby 1989; Gurowitz 1999b, 444; Asia Migrant Centre 1999; 2000). In the case of Korea, Park Hyo-ouk, former director of policymaking for the Korean Labor Ministry, has explained that policy does take into account the wishes of immigrant sending countries because Korea has significant trade relations with those countries—but these nations make no demands regarding family rights (author interview, 2000). In sum, Asian nations feel no obligation to respect family rights, but it appears that the sending nations make no great demands on the issue.[6]

International human rights norms

The last potential explanation is the role of international human rights instruments and norms. Several scholars have emphasized this factor. There are the "top-down" theories of Soysal (1994) and Jacobson (1996) that argue for the importance of the diffusion of norms through international bodies such as the UN and the European Commission on Human Rights. There is a "bottom-up" theory, emphasized by Gurowitz (1999b), that focuses on how NGOs use as tools to legitimate their arguments before government officials or before courts. While Asia lacks the

[5] The Philippines and Taiwan completed an agreement in 1999 to create a direct hiring scheme and thus circumvent labor brokers who charge exorbitant rates. To date it has not been implemented (Asia Migrant Centre 2000, 251).
[6] Why they do not make such demands is a mystery. One possibility is rooted in economics. Sending states value those remittances, and presumably, if a Filipino worker brings his wife and children to the more developed Asian states, he will be sending less hard currency to the Philippines. However, why were not north African nations or Turkey motivated by the same logic? Another reason sending nations to Asia do not demand family rights may be that they are weak and they fear offending or angering the receiving states. Yet north African sending states are weak, but for some reason did not fear encouraging family rights.

specific human rights conventions, commissions and courts in place in Europe, international human rights norms do have effects and are taken seriously by Asian nations aspiring to world leadership and legitimacy. Korea's desire to develop and join the First World has made it open to arguments stressing global rights norms. Indeed, the Korean leadership instituted a "segyehwa" (globalization) strategy of national development, that has led to serious consideration of global standards, and Korea's effort to join OECD put it under great pressure to ratify some ILO conventions, and (Kim 1999; Seol and Skrentny 2001). Japan shows a similar pattern. In both states, NGOs use international human rights norms to push for progress for migrant worker rights (Gurowitz 1999b). Taiwan has sought global recognition for its democracy specifically to contrast itself from China (Cheng 2003). Yet in no case have these nations seen family rights as part of their strategies to globalize, internationalize, or otherwise impress other nations with their progressive policies. While Japan, Korea and Taiwan move toward more and more human rights for their migrant workers, family rights show no sign of becoming a part of policy.

DISCUSSION AND CONCLUSION

None of the standard explanations for immigrant rights in Europe can explain why immigrants to Korea are denied the basic right of family reunification. There are a few other explanations in the literature. Solinger (1999) compares migrant worker rights in Germany, Japan and (within-nation rural to urban) China to explain why rights are less developed in Asia. She argues there are three reasons for this. First, in Asia, migrant workers do not compete with locals for jobs in the larger firms as they did in Germany; they are "often shunted into firms that

function in a realm set apart from, and so immune from, the comparative beneficence of the mainstream, primary labor market regulatory regime" (Solinger 1999, 307). Second, labor unions are not as strong politically on the national level in Japan/China as they are in Germany, and there is no labor union dominated party. Last, Asian immigration policy is different because of the "geopolitical location." She argues that "there is no liberal human rights regime impinging on" the interchange between the mostly east, southeast and south Asian interchange between the sending states and the receiving states (Solinger 1999, 311).

However, these reasons ignore the fact that even if the labor unions are weaker, there *are* migrant worker NGOs active in the political field in Korea, and these NGOs are very much informed by international human rights norms, and in fact make them the focus of their goals and methods. The phrase "human rights" is ubiquitous in their discourse. The simple fact of the matter is this: family rights are not even on the agenda in Korea or the most developed states in east Asia.[7] The NGOs recognize family rights—the Asian regional network (Asian Migrant Centre/Migrant Forum in Asia) created a list of "Twenty Basic Rights of Migrant Workers," and number 16 on the list is the "Right to protect, preserve and maintain the unity of the family" (Asian Migrant Centre 2000, 19-20). But one is hard pressed to find instances where family reunification is even discussed in Asia.

Why not? One alternative explanation is that Korea went through a process of "policy learning" (Heclo 1974). For example, policymakers saw that migrant settler populations cause social problems in Europe. Therefore, they learned that migrants should not be allowed to

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[7] The country report for Taiwan in the Asia Migrant Yearbook mentioned the severe violations there ("Women's reproductive rights are violated by making pregnancy or giving birth to a child an 'offense' and a valid cause for termination and summary deportation of women migrants. Taiwan has also practically *outlawed* migrants' families by making bringing in/living with their families an offense punishable by deporatation"; Asian Migrant Centre 1999, 199). However, this is issue was completely dropped in the Taiwan report for the following year (Asian Migrant Centre 2000).

become permanent residents and a strict "rotation policy" must be maintained (Gurowitz 1999b; Seol 2001). Even in Europe family rights are now curtailed (Joppke 1998); it may be that family rights in principle are supported but in practice are a thing of the past the world over. However, though it is true that the most developed European nations have stopped much new immigration, the case of Spain suggests that not every nation will learn that immigrants are problems—Spain offered family rights in 1993. Something distinctive appears to be happening (or not happening) in Korea and the rest of Asia.

Is the answer rooted in demographics? Korea is one of the more densely populated states on the planet, and so it seems likely that this would make leaders reluctant to allow this route to population growth. Gurowitz points out that opponents of immigrant rights in Japan argue that Japan's "overpopulation" is one reason to avoid any new permanent residents (Gurowitz 1999b). I found a similar explanation in our interviews in Korea. It is true that population densities in east Asia are very great (Korea and Taiwan are just below Bangladesh as the most densely populated nations), but this difference is not in any simple way related to immigration policy. European nations are not as dense, but they are certainly not blessed with plenty of free space. The Netherlands in fact has a greater population density than Japan and it has allowed family reunification. Moreover, due to low birthrates the populations of the three Asian nations are shrinking or will be soon.

Another potential demographic explanation focuses on ethnic homogeneity. Japanese leaders proudly argue that Japan's ethnic and cultural homogeneity are factors in its strength and they are loath to disrupt that with immigrant settlers (Cornelius 1994b; Gurowitz 1999b). Korea is even more homogenous culturally and ethnically than is Japan. Korean policymakers, such as Park Hyo-ouk, express concern for the "side effects" of a settler population. NGOs explain that

though they support family rights, Korea is simply not ready for multiculturalism. As one labor union head told us, "There is an emotional rejection" of migrant family rights and settlement because "it is against our history" (interview with Yoon Woo-hyun, Korean Federation of Trade Unions, 2000).

However, the cultural homogeneity of Korea relative to western Europe cannot be the only explanation of the overall Asian pattern of policy. Ethnic homogeneity characterizes only Korea and Japan, and in Japan it is exaggerated (Lie 2003). Taiwan's rejection of families and immigrant settlement is harder to understand, because it is really a kind of Chinese settler nation. It had centuries of diversity and conflicts between settlers from different areas of China (which spoke different dialects) and between the Chinese and the native Taiwanese population, related to Malays. The island is now divided between a Fukienese-speaking portion (85 percent), a Hakka-speaking group (15 percent) and the 200,000 or so natives (Wu 1995, 21). Furthermore, while not democracies, both Singapore and Malaysia, both with very diverse populations divided mostly between Malays, Chinese and Indians, follow the Asian pattern of steadfastly restricting family rights. Thus, it is harder to accept homogeneity as the main reason for resistance to immigrant settlement when heterogeneous states in the region similarly reject settlement.

Korea's reluctance to allow families may be due to the expectation or fear that North Korea will one day collapse and provide millions of workers desperately in need of jobs. This may indeed be a factor in Korea (Seol 2001), but it obviously has nothing to do with any other state's similar policy in the region, suggesting another dynamic may be at work. In addition, Germany was similarly divided but did not let this fact prevent it from allowing immigrant settlement. Is the closed immigration policy part of a larger "closed" policy orientation, manifested in trade barriers and historically protected or closed markets? This may be a clue,

but if we step out of our three cases and look at Singapore, we see the same immigration policy but an open market and near-zero tariffs (www.ustr.gov/releases/2000/11/factsheet.pdf)—clearly, open markets can be compatible in Asia with rejection of migrant settlers.

This points to something in east Asian regional political cultures and regional political institutions as the primary factors in keeping family rights off the agenda. Both Europe and Asia show evidence of belief in racial or ethnic superiority and an aversion to foreign cultures or a desire to maintain homogenous national communities. However, Europe shows evidence of a wide-ranging concern for human rights in many of its immigration policies, and built these principles into supra-national institutions such as the European Court of Human Rights and the Commission on Human Rights, that act as moral watchdogs and set moral boundaries of policymaking (Soysal 1994, Jacobson 1996). Moreover, on the domestic level, memories of the tragedy of Nazism and World War II push policy toward respect for human rights in Eurpoean countries (Muller 2002), especially in places such as France (Bleich 2003) and Germany (Diez Medrano 2003). This humanitarian impulse, though rising fast, still seems to be less embedded in Korean and other Asian domestic politics and of course East Asia lacks comparable supra-national political institutions, perhaps because of the differing memories of WW II.

Despite the intense processes of globalization now occurring in the world, in areas ranging from investment, trade and human rights (Risse, Ropp and Sikkink 1999), regional variations persist and for now appear to resist some aspects of globalization. I have sought to demonstrate the lack of fit of the theories arising from European cases, which suggests globalization of human rights may not extend equally across regions. I argue that a more historically and regionally specific understanding of Korea must be the basis for a more accurate model for understanding the lack of family reunification rights.

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