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Faculty of Law and Political Science

Analysis of Improving South Korean Refugee Policy:
The Case of 2018 Yemeni Refugee Crisis in Korea (Jeju Island)

M.A. Thesis

by

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The Case of 2018 Yemeni Refugee Crisis in Korea (Jeju Island)**


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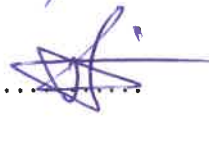
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ABSTRACT

The Republic of Korea sought to become an "advanced human rights country" by joining the Convention Relating to the Status of Refugees and Protocol Relating to the Status of Refugees in 1992. In addition, a provision for refugee recognition was established in the Immigration Act in 1993, and the refugee policy was implemented in earnest in 1994. However, contrary to the Korean government's expectation, criticism of the refugee policy continued on the inside and outside of the country, with the birth of the first Korean recognized refugee in 2001. Although the Korean government and the National Assembly established the first refugee act (the Korean Refugee Act) in Asia in 2012 to improve the refugee policy, the refugee acceptance rate remains at the bottom of the list of 36 OECD countries. Against this backdrop, Yemenis applied for refugee status after entering the country in 2018 using loopholes in the Korean immigration law. This incident made the refugee affairs public issue and marked a turning point in improving the Korean refugee policy.

This paper aims to improve the flexible refugee system that combines 'national security' and 'human security', focusing on the problems experienced in the refugee affairs in Jeju Island in 2018. To this end, it reviews the problems of Korea's refugee policy and the refugee law, and presents measures to improve the Korean refugee system in four stages of refugee application, screening, decision and residence with a neutral view. In addition, the history of the Korean refugee policy, development process, and statistical data were presented so that they could be used for future studies of the refugee policy model in Lebanon.

Keywords: Korean refugee policy, Refugee Act, Refugee Convention, definition of refugees, Yemeni refugees in Jeju, Lebanon, Syrian refugee crisis

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I. INTRODUCTION

1. Research Questions and Purposes

The refugee issue shocked in the Republic of Korea (hereinafter “Korea”) in 2018. The incident began with the arrival of 561 Strangers (Yemenis) in the Jeju Island, Special Self-Governing Province,¹ which is implementing the visa-free entry system to vitalize the tourism industry. Those who disguised as tourists applied for refugee directly after entering the country due to the civil war situation of their home country. When Muslims, who are culturally reluctant, applied for refugees, Korea was in turmoil. The Ministry of Justice's immigration and foreign policy headquarters (hereinafter "the Immigration Office"), which is in charge, belatedly came up with measures for refugees.

However, their refugee application through the loopholes in the Korean immigration system has stirred up public sentiment and has been blamed for the government. The government's quick response was needed to reduce the criticism of the people. The government has set a precipitation to designate Yemen as a country that is not allowed to enter. The government also ordered thorough and rapid refugee screening steps based on identity verification to the Immigration Office. As the government became aware of the anti-refugee opinion, the international community began to criticize the government. In this regard, it was necessary to reform the basic refugee system, not just the measures that were only

¹ To attract tourists, Jeju Island implemented the "Special Act on Establishment of Jeju Special Self-governing Province and the creation of an international free city" from April 1, 2002, allowing foreigners from 170 countries except 24 countries to enter the country without a visa. It is also known as the visa-free entry system. Foreigners who enter the country through the system are allowed to stay in Korea for one month after entering the country. (Jeju provincial administration Website: https://www.jeju.go.kr/group/part28/refer.htm;jsessionid=EFOObVHLpgCjj3e69vwYoHZa8MoSJEN91po9LjStD19m6n5Q97zneUKgYwmRqVjk.was1_servlet_engine1?act=view&seq=1041502#english)

favorable or opposed to the refugees.

For all countries, acceptance of 'Refugees' is an issue that cannot be easily determined. It is impossible to push for refugee policies only with the will of the government, as it is also related to diplomatic, political and security issues. In particular, the government is reluctant to accept refugees while claiming to be human rights-promoting country because the majority of Koreans are against the refugee issue. Due to the cultural nature of emphasizing a single nation, Koreans perceive refugees as being eternal strangers as unifying in society. In this case, most Koreans even criticized the people who claimed to accept refugees as traitors of the country." Inter-Korean issues are also a stumbling block in establishing refugee policies. If the situation on the Korean Peninsula changes rapidly, more than 20 million North Koreans are likely to be detained in Korea. The Korean government, which also failed to take measures against North Korean defectors, has not been able to actively implement the policy of accepting refugees.

Among these, the Yemeni incident in 2018 was the last golden time for Korea to reform its refugee policy. In the wake of the incident, the government publicly discussed the refugee issue, which was all about hiding, and selected the subject as a research subject because it needed to improve the fundamental refugee system. In this context, the introduction will confirm the history and status of Korean 'Refugee Act' and refugee policies, as well as problems with the Korean government's refugee policies. It also analyzes refugee policies and issues in major refugee-accepting countries and conduct comparative studies with Korea's refugee policy.

As the main discussion, this paper presents the process from the beginning of the case to the result announcement of the refugee screening with measures to improve the Refugee Act and the refugee system in Korea. Looking at a series of processes such as refugee application, examination, result announcement, and application, the problem of each

stage will be analyzed in detail, and the problem shown in the gap between the Refugee Act and refugee policy. The conclusion will present the Korean Refugee Act and the direction in which refugee policies should move forward, focusing on the best practices of developed countries in human rights and ways to improve the level of refugee screening, which were studied through surveys and interviews of actual Yemeni refugee applicants. Lastly, this paper proposes to the Korean government how to improve refugee policy from a neutral perspective on refugees, and tries to help make a case study of the Korean refugee Act and refugee system possible for Lebanon. It is hoped that Lebanon, which stands at a crossroads between the rise and fall of the nation while accepting Syrian refugees, will reestablish and develop its refugee policy model and become a human rights leader.

2. Theoretical Background

1) Concept and Definition of Refugees

Despite the international community's long-standing discussions on the definition of refugees and the UN Refugee Convention's definition of refugees, the concept of refugees is still unclear. The concept of refugees is easily reminded of refugees drifting out of the war and relying on boats at sea, starving children in poor countries, and villages devastated by civil war, poses a vague and comprehensive image.² Historically, the concept of 'immigrant' began after the end of World War I with the large number of people who left their homeland after the collapse of Czarist Russia and Osman Turk. At that time, the Soviet regime forced its citizens to grant them citizenship, and the international community realized the need to

² Andrew E. Shacknove, "Who is a refugee?", 274-275

protect the Russian people who refused to do so. ‘Dr. Fridtjof Nansen’³ of Norway was appointed the High Commissioner of the League of Nations to protect them, and a travel certificate was issued to them to protect Russian refugees, which led to the birth of the Nansen Passport. Later, the League of Nations signed a treaty⁴ on the first regulations for refugees. The plan was to actively protect refugees by stipulating that they were not protected by the Soviet government or those from Russia who did not obtain citizenship from other countries. After Dr. Nansen's death in 1931, an independent refugee organization of the League of Nations was also established. From 1931 to 1938, the International Nansen Office launched humanitarian efforts for refugees. Since 1938, the High Commissioner for Refugees, an organization that combines the International Nansen Office with the High Commissioner for Refugees in Germany, was appointed by the League of Nations.

It was not until after World War II that the concept of refugees was specifically stipulated. On April 22, 1951, Convention Relating to the Status of Refugees (hereinafter “Refugee Convention”) came into force to protect postwar refugees. In Chapter 1 of the Refugee Convention, Article 1 A (2) of the General Regulations, there are five elements that distinguish the conceptual elements of refugees. 1) Persecution 2) Fear with sufficient grounds 3) A person who is a member of race, religion, nationality, and certain social groups or political opinions 4) cannot or does not want to be protected by a nationality country or a country that has previously been outside its permanent residence.⁵ The treaty was meaningful

³ Born in Norway in 1863, he was the first UL Secretary for Refugees, and worked for the survival of refugees in the protection of refugees, the acquisition of legal status of refugees, and the retention of refugees' jobs. In particular, Nansen Passport was issued in 1922 with approval from 52 countries to ensure the legal status of refugees. (UNHCR Website)

⁴ The response of the League of Nations was the convening of a conference in Geneva in July 1922 which drafted the Arrangement with Regard to the Issue of Certificates of Identity to Russian Refugees. The Arrangement was not a treaty and was not legally binding. It recommended a standard of conduct for signatory states. (Peter Fitzmaurice, Research Report, Anniversary of the forgotten Convention: The 1933 Refugee Convention and the search for protection between the world wars)

⁵ The refugee definition by UNHCR: A refugee is someone who has been forced to flee his or her

in that it had defined concepts more specifically, away from the definition of refugees of limited nationality. As there was a positive prospect that no large-scale refugees would occur after the Second World War, the treaty limited “as a result of events that occurred before January 1, 1951”.

However, expectations did not last long that there would be no large-scale refugees. Since the 1960s, since the 1960s, there has been uniformity in the world order centered on Western powers. As the decolonization process progressed, the Third World countries made its debut on the world stage. Large numbers of refugees have sprung up outside of Europe as conflicts and social conflicts, which have been stifled by the rule of a great power, have exploded in succession in three world countries. When the treaty was signed in 1951, it was wrong to predict that there would be no major refugee crisis after World War II.

As refugee problems continue to occur in many parts of the world, it is necessary to exclude the time constraints at the time of the refugee's cause. As a result, the 1967 Protocol Relating to the Status of Refugees (hereinafter “Refugee Protocol”) was adopted, which abolished time and geographical restrictions, eliminating the existing section "as a result of events that occurred before January 1, 1951" in the haste of the Refugee Convention. Although the existing refugee agreement and the definition of refugees are similar, with the exclusion of time and geographical restrictions, the international community was able to deal with the refugee problem more actively on the basis of the Refugee Protocol.

There was also a limit to the Refugee Protocol. It was pointed out that the reason for the recognition of refugees as defined in the Refugee Convention and the Refugee Protocol is only a traditional concept. The reason for the outbreak of refugees was that they could not include refugees due to natural disasters, political emergencies, and colonial rule. As such,

country because of persecution, war or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. (UNHCR Website)

the concept of refugees, defined in the Refugee Convention and the Refugee Protocol can be regarded as strict and limited. Expanding the concept of refugees in consideration of political and social situations around the world was inevitable.

Based on the need to expand the concept of refugees, the Convention of the OAU in 1969 and the 1984 Cartagena Declaration on Refugee have played an important role in expanding the concept of refugees to date by common law.⁶ First, the background of the OAU agreement came in the 1960s when the issue of African mass refugees emerged as an international agenda. In the course of African countries' independence, political views alone created borders between nations, and the establishment of a new government created numerous civil wars and new social conflicts. As Africans fled the country to avoid conflict, mass refugees independent of the category of the Refugee Convention were created.

As a result, the Organization of African Union (OAU) has established a refugee concept unique to Africa. The 1969 OAU Convention used the concept of refugees as stipulated in the 1951 Refugee Convention and the 1967 Refugee Protocol, but added "a country from or from a country where acts of external aggression, occupation, foreign domination or harming public order occur in some regions or countries as a whole." Although limited to Africa, those who fled to other countries due to their own wars or civil wars on the basis of the OAU Convention could be recognized as refugees.

In the 1970s and 1980s, the military regime in South America indiscriminately killed opposition forces in violence, human rights abuses, political terrorism, and even potential government opponents in order to maintain dictatorship. The number of people escaping to foreign countries to escape oppression and persecution by military dictatorships has increased, and the need to recognize these people as refugees has been raised, thus expanding the concept of refugees through the Cartagena Declaration. The Cartagena Declaration was

⁶ Eduardo arboleda, "Refugee Definition in Africa and Latin America: The Lessons of Pragmatism", 1991: 185-186

generally applied by South American countries as a common law, but was accepted as a domestic law in some countries and is supported by the UNHCR Executive Committee, the Organization of American States (OAS), and the United Nations General Assembly. However, much debate continued between political, legal, and social justice, even in the interpretation of persecution and Fear with sufficient reasons. It is pointed out that factors such as war, civil war, violence against unspecified majority, and human rights infringement are also common law concepts and do not have legal binding power such as treaties. Meanwhile, in the Arab world, "Declaration on the Protection of Refugees and Displaced Persons in the Arab World" was adopted by the Arab expert group at an international seminar held in Cairo, Egypt from 16 to 19 November 1992. Recently, there have been more widespread refugees than in the past, including environmental difficulties caused by environmental pollution, massive natural disasters, and economic refugees threatened by economic causes. As the concept of refugees is emerging with various issues such as environmental pollution, rapid industrialization, and migrant workers, a multi-directional solution is needed.

2) Refugee Situation in Korea

Korea joined the Refugee Convention and the Refugee Protocol in 1992 and has implemented these agreements since 1993. According to Division of the Refugee Affairs in the Ministry of Justice, 22,792 people applied for refugee status from 1994 to the end of 2016, while 13,393 were ended with the decision. Of these, only 672 were granted refugee status, and 1,156 were granted humanitarian permission to stay, so a total of 1,828 are being protected by the government. According to the annual statistics of refugees from the Immigration Office, the number of refugee applicants has soared to more than 2,000 since

2014. The domestic Refugee Act, enacted in 2012 can be estimated as a result of its implementation in 2013. According to the data on the reasons for applying for refugee status by year, many people applied for refugee reasons, before 2016 due to political opinions, but after 2016, the number of people applying for refugee status increased rapidly due to religious reasons. Also, the reason for the application for being persecuted in 2016 for being a specific social group is a highly increase of 169.8 percent from the previous year. The number of applications for nationality has increased by more than five times and the number of reasons for the race has tripled. When they applied for refugee status on the grounds of nationality, most of them claimed to have been discriminated or persecuted for being of a particular ethnicity, even though they were of the same nationality.

Although the number of recognized refugees has slightly increased, the reason for family reunification has also increased. In addition, the reasons for applying for refugee status due to civil war are indicated separately from 2015. It also shows that the number of refugee applicants has begun to increase. The statistics on the reasons for refugees from the Ministry of Justice show that refugees are occurring worldwide.

<Table 1 Status of Refugees Applicants in Korea by year>

(1994.01.01 ~ 2018.12.31)

Year	Sort	Application	Withdrawal	End of Decision
Total		48,906	5,767	23,208
1994-2010		2,915	556	1,913
2011		1,011	90	339
2012		1,143	187	649
2013		1,574	331	586
2014		2,896	363	2,376
2015		5,711	280	2,123

2016	7,541	731	5,322
2017	9,942	1,200	6,021
2018	16,173	2,029	3,879

<Table 2 Results of Refugee Application in Korea by year>

(1994.01.01 ~ 2018.12.31)

Sort Year	End of Decision	Total	Recognition	Humanitarian stay qualification	Disapproval
Total	23,208	2,924	936	1,988	20,284
1994-2010	1,913	336	216	120	1,577
2011	339	62	42	20	277
2012	649	91	60	31	558
2013	586	63	57	6	523
2014	2,376	632	93	539	1,744
2015	2,123	299	105	194	1,824
2016	5,322	344	98	246	4,978
2017	6,021	439	121	318	5,582
2018	3,879	658	144	514	3,221

<Table 3 Refugee Applicants by reason>

(2012.01.01 ~ 2017.12.31)

Sort Year	Total	Religious	Political Reason	Minority	Ethnicity	Nationality	The Others
2012	1,143	291	348	52	35	3	385
2013	1,574	369	289	63	78	2	708
2014	2,896	903	595	169	106	7	1,002
2015	5,711	1,311	1,397	721	200	7	2,032 (Civil war 428)

2016	7,542	1,856	601	1,224	38	38	2,166 (Civil war 227)
2017	9,942	2,927	1,565	1,101	778	32	3,272 (Civil war 179)
2018	16,173	3,764	2,426	1,588	1,054	107	7,234

Source: Korean Immigration Bureau December 2018, Statistics of Entry and Exit Foreign Policy (issued on Jan.2 2019)

3. Research Method and outline of Research

The Refugee Act went into effect in Korea from July 2013 as the importance of refugee treatment has gradually increased in the country. Prior to studying the main contents and significance of the Refugee Act, this paper examines the history of the refugee policy in Korea and examines what background the Refugee Act has been enacted into the domestic law. In addition, the merits and demerits of Korea's refugee policy will be analyzed through comparison with the refugee policies of major countries, and the current situation of Korea's refugee policy, focusing on the 2018 Yemeni refugee case on Jeju Island, will be examined, and what is the problem and the direction of improvement will be. With regard to the rapid increase in the number of refugees over the past five years, the government will be able to find out what is the appropriate improvement in refugee policy, focusing on the flexibility of the refugee system.

The main Study will analyze Korean refugee policy by dividing the time around when the Refugee Act was approved and ratified by the National Assembly in 2013. The reason for this is that since Korea ratified the 1992 Refugee Convention and the Refugee Protocol, only a few provisions of the Immigration Act have been applied to laws dealing with refugees. There were doubts about the willingness to accept refugees from the international community and the domestic legal community, and it was not until 2009 that the Refugee Act was petitioned for legislation and the new Refugee Act was initiated as of 2012.

The one of the purposes in this thesis is what characteristics of the refugee policy in Korea have and what changes have been made in the Immigration Act and the Enforcement Decree prior to 2012. Also, it contains how the movement for the legislation of the Single Refugee Act has been developed, and finally there has been some movement to ratify the bill since the 2009 legislative petition, and what discussions have taken place. Based on this purposes, the main object of this paper is to study the main contents of the Act on Refugees, the critical understanding of each view of the Refugees Act, and the political implications of Korea's refugee policies as a result of the Refugee.

This study pan out as follows: main concept and prior studies review the definition and characteristics of refugees and the status of refugees in Korea in Chapter 1. Chapter 2 reviews Korea's refugee policies before 2012. The study will be on the status of Korean expatriates' expropriation before and after the signing of the Refugee Convention, as well as the background of the ratification of the Refugee Convention and its consequences. the analysis will be on the characteristics of the revision of the Immigration Act for domestic implementation measures beginning in 1993, its enforcement ordinance and the contents of the amendments to the Act. It will be looked at the process of enacting the Refugee Act by analyzing situations such as the beginning of discussions on the Act and the 2009 petition for legislation. Various public hearings and forum materials and statements from the press, civic groups and international organizations will be used for analysis. It will also study the main contents and significance of the Refugee Act, which have changed since the ratification of the Refugee Act in 2012.

This thesis presents characteristics of the Korean refugee policy and how it has undergone changes in the Immigration Act and the Enforcement Decree. It also seeks to look at how the movement to enact a single refugee law has developed, and finally, after the 2009 legislative petition, there has been some movement to ratify the bill, and what discussions

have come and gone. Based on this background, the paper contains the main contents of the Refugee Act, which was finally enacted into law, the critical understanding from each point of view of the Refugee Act, and the political implications of Korea's refugee policy after enactment of the Refugee Act.

The Chapter 3 reviews refugee policies of international society. The Refugee Convention was signed for the smooth handling of post-war problems after World War II, and the problem of refugees centered on Europe and the United States emerged in the course of Germany's reunification and the collapse of communism in the former Soviet bloc. Korea also needs to study the cases of major refugee camps in advance, depending on the increasing number of applications for refugees. To this end, it will be able to compare and analyze the recent issues of major countries and the differences between Korea's policies by looking at the typical refugee countries. Chapter 4 seeks to find out about a series of incidents that occurred when Korea entered Jeju, a tourism special autonomous province that implements the Visa-Free System, in 2018. The incident is regarded as a turning point for improving refugee policies, as it clearly illustrates the problems of the current Korean refugee Act and the system. Chapter 5 will study what is wrong with the Korean refugee system, and Chapter 6 will suggest ways for the system to improve its neutral view of national and human security based on these problems.

II. THE KOREAN REFUGEE ACT AND REFUGEE POLICY

1. History of the Korean Refugee Act

1) Accession to UN Refugee Convention

South and North Korea joined the United Nations at the same time on the opening day of the 46th General Assembly in 1991. Since the establishment of the Korean government in 1948, the UN has been largely responsible for Korea's diplomacy, whereas it was rather late to join the UN Korea has long wanted to join the United Nations, but failed to join the UN due to opposition from communist countries representing North Korea.

With the Cold War comes to the end, Korea has laid the groundwork for full-fledged multilateral diplomacy in connection with emerging global issues such as human rights, disarmament and the environment, in addition to international peace and security, as well as international peace and security. Korea began joining major international human rights treaties, including the Refugee Convention, in early 1990 to enhance its international status as a middle-sized country. The UN membership has become an important background for the two refugee pacts. The following table shows the status of Korea's accession to the human rights treaty as of 2019.

<Table 4 Korea's Accession to the UN Conventions related to Human Rights>

Name of Convention	Adoption	Date of Admission (Effectiveness)
International Covenant on Economic, Social and Cultural Rights (ICESCR)	1996.12.16	1990.4.10 (1990.7.10.)
International Covenant on Civil and Political Rights (ICCPR)	1966.12.16	1990.4.10 (1990.7.10.)

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	1965.12.21	1978.12.5 (1979.1.4.)
United Nations Convention on the Rights of the Child (UNCRC)	1989.11.20	1991.11.20 (1991.12.20.)
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	1979.12.18	1984.12.27 (1985.1.26.)
Convention against Torture (CAT)	1984.12.10	1995.1.9 (1995.2.8.)
The Convention Relating to the Status of Refugees (1951)	1951.7.28	1992.12.3 (1993.3.3.)
Protocol Relating to the Status of Refugees (1967)	1967.1.31	1992.12.3 (1993.3.3.)
Reservation to the Convention on Genocide	1948.12.9	1950.10.14 (1951.12.12.)
International Convention for the Suppression of the Traffic in Women and Children	1949.12.2	1962.5.14 (1962.5.14.)
Convention on the Political Rights of Women	1952.12.20	1959.6.23 (1959.9.21.)

Source: Status of Accession to the Convention on Human Rights in Korea:

(1) UN Treaties Database-<http://untreaty.un.org>

(2) Foreign Affairs and Trade Policy-Part of Human Rights Society

As shown in the table above, eight or more of the 12 human rights treaties Korea has joined so far have been signed after the UN. It seems that the move was aimed at defying the image of a backward country in human rights due to autocracy that lasted until the 1990s. As shown below, the agreement on the two refugee pacts Korea joined in 1992 contains the Korean government's willingness to promote human rights as a member of the international community.

- i. To join the Universal Personality Convention on the Protection of Refugees adopted by the United Nations to grant basic human rights and freedoms to refugees on the basis of the Charter of the United Nations and the Universal Declaration of Human Rights.

- ii. It is aimed at establishing a smoother cooperation with the United Nations High Commissioner for Refugees, an international protection agency for refugees, while clarifying its willingness to join the international efforts to protect refugees led by the United Nations through the accession of the Refugee Convention.

- iii. Our country has already joined the Refugee Convention, established by the United Nations in 1962, in order to protect the uninhabited people.

As seen in the agreement, the Korean government wanted to raise its status as the developed human rights country in the world, specifying that it would join international efforts to protect refugees. As a result, Korea has actively participated in joint efforts by the international community since joining the Refugee Convention in 1992, including participation in discussions on refugee issues on the international stage and expansion of financial contributions to the UNHCR.⁷ In particular, in May 1997, as chairman of the United Nations Security Council, he led a public debate on "protection of humanitarian assistance to refugees in conflict situations," contributing to the adoption of two parliamentary statements. The status of contributions to the UNHCR in Korea is as follows:

<Table 5 Korean Financial Contribution to the UNHCR>

(2002 ~ 2015, thousands of USD)

	2005	2008	2011	2013	2015	2017
Amount	1,150	3,017	2,197	20,913	6,378	42,186

Source: the Ministry of Foreign Affairs

⁷ Lee Jae-gang, Refugee Application Procedure at the Ports: Review of the first anniversary of the refugee law enforcement and future development directions, 2014. 31.

<Table 6 Voluntary Contribution to UNHCR in 2017>

(Thousands of USD)

1. U.S.A	1,460,236	6. U.K	103,782
2. E.U	438,457	7. Canada	86,215
3. Germany	322,144	8. Norway	83,628
4. Japan	175,298	9. Netherlands	78,008
5. Sweden	121,043	15. Republic of Korea	42,186

Source: the UNHCR annual report(2017), http://reporting.unhcr.org/sites/default/files/donor_ranking

However, unlike the strong will of Korea when it joined the Refugee Convention and active participation in the international stage, refugee recognition rate is quite low until now in Korea. On the non-binding international agreement, the government not only lacked responsibility and willingness to fulfill its obligations, but also the low public awareness of the refugee issue was a stumbling block. In addition, he showed a passive tendency in recognizing refugees because he was concerned about weakening diplomatic and political ties with developing countries. This was the result of recognizing external refugee protection as different problems and applying double standards. As a result, Korea's entry into the two refugee pacts has been criticized as an exhibitionistic measure considering its status only in the international community.⁸

2) The Immigration Act and Enforcement Decree

This section presents the criteria and procedures for the screening of refugees in the Immigration Act, which was applied in Korea until June 30, 2013, before the establishment

⁸ Hyemi Hwang, op.cit 65

of the Refugee Act after Korea joined the two UN Conventions in 1992. The main provisions concerning refugees in the Immigration Act have been implemented since December 10, 1993. The criteria for examination of refugee recognition are based on the definition of refugees as provided in Article 2 of the Immigration Act. It can be said that it has been used as a criterion for screening refugee status based on reasons that cause fear of persecution as stipulated in Article 1 of the Refugee Convention. After the ratification of the Refugee Convention in 1992, Korea's refugee policies can be recognized through the Immigration Act at that time. It is the Ministry of Justice that is in charge of the examination of refugee recognition, and the matters concerning refugee recognition were carried out in accordance with Article 76-2 of the Immigration Act, the Rules for Operation of the Council for Refugees and the Regulations for the Treatment of Refugees' Recognition Work. The following is the procedure for admitting refugees in the early stages of Korea. First of all, applications for refugee recognition can be made after entering Korea and the application period is 60 days or less, and the application must be submitted to the director of the immigration office, the travel office of the immigration office, and the director of the foreign protection office with the application form, ID card identification, photo, and documents that can prove persecution.⁹ Next, interview and fact-finding will be conducted, and the examiners for the refugee applicants will prepare an investigation report and send it to the Minister of Justice.

As for the screening criteria, the Immigration Act is subject to Article 76-2 paragraph 1, which stipulates that "the Minister of Justice may recognize that a foreigner is a refugee when an application is made for the recognition of refugees from foreigners in the Republic of Korea as provided under the Presidential Decree." If recognized as a refugee, the procedure shall be terminated, and in case of a non-refugee's admission, within seven days

⁹ The Enforcement Decree of the Immigration Act, Article 88

from the date of receipt of the notice, the Minister of Justice shall convene the Refugee Committee to decide whether to accept the refugee after consultation on the request. The Committee on Refugee Recognition is responsible for consultation on matters concerning the recognition and protection of refugees, matters concerning the filing of objections, matters concerning the settlement support of refugees, and other matters that the Minister of Justice acknowledges as necessary in relation to refugee work and submits them to the Council.

However, since Korea joined the Refugee Convention, it has been pointed out that the criteria for the recognition of refugees are too strict in April 2001 through the final opinion of the UN Commission on Economic, Social and Cultural Rights. And finally, a change in the Korean refugee system began in 2001 when one Ethiopian was first recognized as a refugee. Although Korea has taken a step forward in the recognition of refugees, there is a possibility that Korea has become a member of the UNHCR since 2000 and that the first refugee recognition in 2001 reflects some of the interests of its entry into the country.

3) Development of Refugee Policies & Discussing Enactment of Refugee Act

As above, Korea has implemented the refugee admission by establishing a clause on refugees in the Immigration Act, referring to Japan's case, since it joined the Refugee Convention in 1992. It was assessed that the refugee system has become more specific than before due to the clause on refugees in the Immigration Act. However, discussions began on revising the refugee system as refugees who cannot return to their home country due to persecution in their home country were examined by the standards of the Immigration Law, which focuses on national security, rather than from the perspective of human security.

Lawyers and human rights groups agreed that they should not simply look at refugees as illegal, even if they are illegal to stay and enter the country due to their special

nature. Since 2000, refugee activists with a sense of concern over the refugee system have started discussions to create an independent refugee act that conforms to the spirit of the Refugee Convention. The need to enact a single refugee law was officially advocated in 2003 when the Korean Bar Association published a human rights report titled "Presenting Problems and Alternatives of Korea's refugee policies in 2003. In 2004, a group of lawyers for democratic societies and shelters were sponsored by the National Human Rights Commission of Korea, and for the first time in Korea, published a report titled "The Investigation on the Human Rights of Refugees and Treatment of Foreigners," urging the enactment of the "Law on Refugees and Treatment."¹⁰

Efforts have been made to revise the refugee system at the government level as well as at the private sector. In August 2005, the Ministry of Justice attempted to separate the first and second screening agencies from the existing main body of the refugee screening process, which was made by the Minister of Justice. The Immigration Director (currently the head of Immigration and Foreign Policy Headquarters) decided on whether to recognize refugees, and the objection was to be decided by the refugee recognition committee. Although it was too much to say that the decision was a fair procedure that was completely separated from the justice ministry, it was meaningful that the government attempted fair refugee recognition procedures under the current law. Furthermore, on November 8, 2007, the Ministry of Justice made a pre-announcement of legislation on the Act on Immigration and Refugees Recognition. The Ministry of Justice prepared and prepared a bill on immigration control, which included notification of travel bans and the issue related with appeal system, some expansion of the rights of those subject to protection, Publishing a ban on repatriation to countries at risk of torture by refugees, and granting permission for the treatment of those

¹⁰ Jeewon Min, South Korea's Refugee Policy and Implementation Since the 2013 Refugee Act : Trial and Error, IOM migration Research&Training Centre, 2017.

who have a refugee status and humanitarian status.¹¹

There have also been efforts at the National Assembly to secure transparency and credibility in refugee affairs. In June 2005, a forum on "The Korean Refugee Status and Ways to Improve the Refugee System" was held for the first time in the National Assembly. As the issue of improving the refugee system in Korea has been discussed in the government, human rights commission and UNHCR since 2003 due to a surge in refugee applications, the National Assembly has made efforts to check the status of refugees in Korea through the human rights forum and seek ways to improve the refugee system. Through the forum, the debate on the refugee law can be evaluated as a step forward, given that the nation's refugee applicants have been able to hear testimonies and opinions of experts through discussions with legal experts, UNHCR officials and civic group representatives.

As discussions for the enactment of a single refugee law began in earnest since the 2006 meeting for the enactment of the Refugee Act, voices for the need to enact the refugee law have gradually grown through various forums and seminars led by refugee activists. There was also the intention to enact the Refugee Act, including the Ministry of Justice's announcement of legislation in 2007, which could be seen as a consensus of interests.

In September 2005, the proposal of the Committee on the Revision of the Refugee Act became an important material for drafting the Refugee Act, and the Seoul Bar Association filed a petition for the enactment and revision of the Refugee Act in 2009 with the data. And on May 25 of the same year, a bill on "The Status and Treatment of Refugees" was presented to the National Assembly, laying the groundwork for the enactment of the domestic law on refugees. Afterwards, the Legislation and Judiciary Committee passed the Assembly plenary session on December 29, 2011, the Refugee Act promulgated on February 10, 2012, and the Refugee Act on July 1, 2013 after reviewing the legislation of the Refugee

¹¹ The People's Opinion News Reports(2007.12.11.), <http://www.vop.co.kr/A00000189297.html>

Act, which was introduced to the National Assembly between 2009 and 2011.¹² To sum up, there is a series of processes from the Korean government's entry into the Refugee Convention and subsequent enactment and enforcement of the Refugee Act as below.

<Table 7 History of the Korean Refugee Policy>

Year	Contents
1992	Accession to Refugee Convention and Refugee Protocol
1993	Establishment of refugee-related clauses in the Immigration Act -Within 60 days of application -Within 7 days of application -Establishment of the Refugee Council
2000	Opening the UNHCR Korean Office
2001	The UN Pointed out Korea's strict criteria for recognition of refugees
	The First recognition of refugee status in Korea
	Revised the Immigration Act
2002	Applying the revised enforcement ordinance -Within one year to apply for refugee status - Promote civilian experts to the Refugee Council
2003	Amnesty criticized the Korean refugees policy - Inadequacy of support for the refugee applicants - Non-professional public servants in charge of refugees
	Human Rights Report of the Korean Bar Association - Criticism of the refugee policy in Korea - Proposed independent refugee recognition organization - Recommendation of statutory stipulations on the protection of refugees - Raising the need for a domestic refugee law
	UNHCR urged Korea to establish a Refugee Act
2004	National Human Rights Commission (NHRC) first proposed a refugee act in Korea
2005	Ministry of Justice divided screening refugees process into two parts - The primary screening agency: the Immigration Office - The secondary agency: the Refugee Council
	Ministry of Justice to Establish Committee on the Establishment and the Refugee Act
2007	Ministry of Justice, Announcement of Legislation for 'Proposal on Immigration Act and Refugee Recognition'

¹² Jeewon Min, op.cit 18

2008	Revised the Immigration Act
2009	The Refugee Act is brought to the National Assembly
2010	National Assembly Legislation and Judiciary Committee to Hold Public hearings on the Refugee Act
2011	304th plenary session of the National Assembly, voting on the Refugee Act (amended revision)
2012.2.10	Proclamation of the Refugee Act (Act No. 112198)
2013.7.1	Enactment of the Refugee Act

Sources: the Korean Ministry of Foreign Affairs

This chapter reviews a series of processes from joining the Refugee Convention in 1992 to enacting the Refugee Act in 2012. There have been three major revisions to the refugee system during this period, but despite the revision, criticism has persisted about the Korean refugee policy at home and abroad. They pointed out that the immigration law, which is ineffective in the promotion of refugee camps and human rights, continued to apply to the refugee issue. Also, it was assessed that no fundamental system improvement was made in the late 1980s in that joining the 1992 refugee convention was a political act to show that Korea was moving from autocracy to democracy.

The Korean Refugee Act, enacted in 2012, began with the efforts of refugee activists and refugee groups to publicize the concept of "immigrant." The government and the National Assembly are also seen as a result of their repeated trial and error, agreeing to improve the refugee system. However, there was still no fundamental awareness of the refugee issue in the enactment of the Refugee Act, and the passage of the promulgated bill as amended in the original version is only perceived as a limitation. Therefore, the next chapter will confirm the main contents of the Refugee Act and explore the significance and limitations of the Refugee Act.

2. Enactment of the First Refugee Act in the Asia

The Korean Refugee Act is the first domestic law between East Asian countries to be enacted in connection with the refugee issue. This means that a single domestic law, not an immigration law, is being applied to refugee recognition. This can be said to be of great significance in that it has changed from a previous view of national sovereignty to an individual's point of view of human rights protection to a refugee law.¹³ It was also said that Korea joined the 1992 refugee agreement in the name of a developed country in human rights, but it has improved the limit of its nominal status. The recognition and protection of refugees through the Refugee Act, which was enacted independently, rather than through the refugee law in the international community, has made it possible to implement the refugee policy from a more human security perspective when relying on the Immigration Act in the past. The institutionalization of refugee recognition through the enactment of the Refugee Act proves that the concept of the people based on the concept of the blood-related and cultural people has changed. As above, Korea has developed its refugee policy since joining the Refugee Convention in 1992. From July 2013, the application of the new domestic Refugee Act led to the implementation of a changed refugee policy. In this chapter, the main content is the changed Refugee Act, what differences are there between the policies of refugees within the existing Immigration Act, the reactions of the various circles to the Refugee Act, and the limitations of this act.

1) Contents and Significance of Korean Refugee Act

To review the process of enacting the Korean Refugee Act, there were two possible

¹³ Report of the Ministry of Justice, Effect of the Refugee Act after 3 years(2016), 5

reasons for the enactment of the Act; ① the recommendation made by the National Human Rights Commission of Korea on the establishment of the refugee law (in 2006) ② the recommendation of UNHCR to enact an independent refugee protection law that guarantees the rights and obligations of refugees and applicants, including procedural rights guarantees during the process of screening of refugees, alternatives to detention and time limits, and procedures for granting refugee status. After that, the Korean Refugee Act was passed by the Legislation and Judiciary Committee of the National Assembly and passed the plenary session of the National Assembly, which was approved on December 29, 2011. After that the Refugee Act was promulgated on February 10, 2012 and was implemented as Act No. 11298 on July 1, 2013.¹⁴ In this section, the Refugee Act will be compared with the previous refugee policies and it will examine the main contents and significance of the bill, focusing on the characteristics that are largely divided into three categories.

i) Stipulation of Refugee Status and treatment in accordance with the Refugee Convention

A noticeable feature of the Refugee Act is that it clearly stated the concept definition of refugees. Article 2 of the Immigration Act provided a rather passive and unclear definition, saying that the definition of refugees follows the provisions of Article 1 of the Refugee Convention and the Protocol on Refugees. In contrast, Article 2 of the Refugee Act clearly defined the concept of 'Refugees' in law by classifying refugee applicants, humanitarian status holders having humanitarian stay qualification with the focus on the basic concept of refugee.¹⁵

¹⁴ The Regulations for the Implementation of the Refugee Act were also enacted and enforced from 2013.7.1. (Article 795 of the Code)

¹⁵ Report of the Ministry of Justice(2016), op.cit 6

The definition of the concept of 'humanitarian status holders' was limited to cases where humanitarian considerations were deemed necessary under the Immigration Act in the past. On the other hand, the Refugee Act clarified areas where past the laws were ambiguous, including the addition of inhumane treatment or punishment, and additional explanations of the situation in which life and physical freedom will be violated upon returning home, and also addressed the possibility of overstepping humanitarian residency eligibility in the operation of the refugee system. In addition, by clarifying the principle of prohibiting forced repatriation, the status of refugees and treatment were advanced to a new level. Under the Immigration Law in the past, as an exception to the principle of prohibiting forced repatriation, the Minister of Justice was entitled to abuse by granting discretion. However, it has shown a desire to fulfill its obligations as a party to the international treaty by clarifying the rule of 'supporting for compulsory repatriation' without exception under Article 3 of the Refugee Convention and the Convention on the Prevention of Cruel, inhuman or humiliating treatment or punishment.

Lastly, the change in the concept of refugees is that all foreigners will be subject to the Immigration Law, and up to the category of refugee applicants will be subject to the Refugee Act, thus ensuring different treatment from ordinary foreigners.

ii) Changes in Refugee Admission Procedures

Korea sought to fulfill the requirements for the screening of refugee status recommended by the UNHCR Executive Council in 1977. The examiners must have accurate instructions, the refugee applicants must receive the necessary guidance regarding the

procedures, an interpreter must be provided, and be able to contact the UNHCR.¹⁶ The second chapter of the Refugee Act deals with applications and screening for refugee recognition as legislation that accepted the recommendation. Article 5 A refugee applicant may receive active assistance from an immigration officer.

Another procedural change is that refugee applications have been made available at immigration ports. Under the previous Immigration Act, the refugee applicant could apply for refugee status again after receiving a temporary land permit, but according to Article 6 of the current Refugee Act, the application for refugee status at the ports can be provided with basic ceremonial stocks within seven days according to the Presidential Decree.¹⁷

In the interview of refugee applicant, an applicant could be interviewed by an examiner of the same gender upon request of refugee applicants. In addition, the Ministry of Justice will be allowed to have a refugee examiner in charge of interviews and fact-finding, and the fact-finding investigation for refugee recognition should be carried out without delay. This seems to be in compliance with international law in that UNHCR also requires a fast screening process system to prevent any obviously groundless or abusing the refugee system. Nevertheless, it was pointed out that the provisions of the Refugee Act on the omission of the screening process were not in the original draft, but were added to the amendment. Among the reasons for omitting the screening process, the screening process could be omitted, especially if foreigners who have been staying in Korea for more than a year apply for refugee recognition near the expiration date of their stay, which is thought to be a restriction to prevent abuse of refugee recognition in the same type as illegal migrants. But this time limit raises the question of whether it will be enough time, given that refugee applicants have a period for the preparation and accountability of documents related to refugee recognition in South Korea. Also, the justice minister's judgment in omitting the screening process may be

¹⁶ Jeewon Min, *op.cit* 19

¹⁷ Lee Jae-Kang, *Reviewing the Problems of the Refugee Agency at the Port of Entry and Departure* (2014), 87

interpreted arbitrarily in that the minister's judgment is crucial in interpretation.

iii) Initiation of Acceptance for Resettlement Refugees

Under the new Refugee Act, resettlement of refugees was allowed through the deliberation of the Foreign Policy Committee.¹⁸ Resettlement Refugee refers to a system in which people have been recognized as refugees by the UNHCR are settled into other countries that are members of the Refugee Convention. The U.S. and Canada have implemented this resettlement system, and for the first time in Asia, Japan has accepted the resettlement of refugees since 2011.¹⁹

Meanwhile, it is pointed out as a limitation of the system that the Foreign Policy Committee considers the issue of resettlement as a "foreign policy issue" rather than a "Refugee or Asylum". Although the purpose of the Refugee Act was to be protected from seeing refugees simply from the concept of foreigners, it is doubtful whether resettlement procedures will protect the refugees from the real refugees in Korea. In addition, it is not certain whether the president will realize the requirements and procedures of the domestic settlement permit or not.²⁰

iv) Livelihood Supports for the Refugee Applicants

The Immigration Law stipulated that only those who received permission to stay outside of their residency and those who did not receive a decision on the status of refugee

¹⁸ The Refugee Act, Article 24

¹⁹ Jo YeongHee, The Review of the Outcomes of and Directions for Korea's Refugee Resettlement System(2017), 13

²⁰ Jo YeongHee, op.cit 26

status until one year after applying for refugee status should be allowed to do so.²¹ Through the Refugee Act, it provided that the refugee applicant could be granted a working permit to a humanitarian resident for the purpose of supporting the actual livelihood of the refugee applicants,²² and that the refugee applicant could be granted support for the living expenses within six months from the date of the refugee application, and that the applicant could be granted a job after six months.²³

As a result, refugee applicants, who applied for refugee status less than a year after they were unable to make any living activities legal, and those who applied for an administrative trial or an administrative lawsuit can all receive support for their livelihood or get a job. Of course, as the government implements the assistance after a substantial examination of the difficulties of living, but not all, institutional supplementation has been made to ensure a minimum human life for refugee applicants.

*** Main Articles of the Korean Refugee Act**

- Chapter 1. General Provision

Article 1. Purpose

This Act is intended to stipulate matters on the status and treatment of refugees pursuant to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees.

Article 2. Definitions

A “refugee” refers to an alien who is unable or unwilling to avail him/herself of the protection of his/her country of nationality owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion; or who, not having a nationality, is unable or, owing to such fear, unwilling to return to the country of his/her former residence prior to entry into the Republic of Korea.

- Chapter 2. Refugee Status Application and Determination

Article 5. Refugee Status Application

An alien in the territory of the Republic of Korea who wishes to attain refugee status may apply for

²¹ The Immigration Law, Article 76-8, Sect

²² The Refugee Act, Article 39

²³ The Refugee Act, Article 40

refugee status to the Minister of Justice. To this end the alien shall submit an Application for Recognition of Refugee Status to the Chief of an Immigration Office

Article 8. Refugee Status Determination

The Office Chief, etc., who receives an application pursuant to Article 5 shall interview the refugee status applicant without delay, investigate the facts and report the results to the Minister of Justice in an attachment to the refugee status application.

- Chapter 4. Treatment of Recognized Refugees and Others

Article 30. Treatment of Recognized Refugees

- (1) A recognized refugee who stays in the Republic of Korea shall be treated in accordance with the Refugee Convention notwithstanding other laws and regulations.
- (2) The central and local governments shall establish and implement policies, prepare and amend relevant Acts and regulations, support relevant Ministries and take other necessary measures concerning the treatment of refugees.

Article 34 (Social Integration Program, etc.)

- (1) The Minister of Justice may provide a recognized refugee with social integration programs, including, but not limited to, Korean language education, as determined by the Presidential Decree.
- (2) The Minister of Justice may provide support for vocational training to a recognized refugee wishing to do receive such training, as regulated by the Presidential Decree.

2) Negative Effects of the Refugee Act

i) Upsurge in Refugee Applications, Appeals and Administrative Litigation

With the establishment of the Refugee Act, the treatment of refugee applicants was guaranteed by the system. However, soon after the act was enforced, foreigners seeking to engage in commercial activities in Korea became a vicious means to extend their stay. As a result, social costs are being wasted as objections, including applications for refugees, and administrative litigation, including those for three years immediately following the enforcement of the Refugee Act. First of all, the number of refugee applicants was on the rise. Since Korea accepted refugee applications on July 1, 1994, there were only 399 refugee applicants by 2004. However, as of 2005, the number of refugee applicants began to increase,

with 2,896 in 2014 and 5,711 in 2015.²⁴

<Table 8 The Number of Refugee Applications in Korea by Year>

Total	'94~'05	2011	2012	2013	2015	2017	2018
15,250	809	1,011	1,143	1,574	5,711	9942	16,173

Sources: Division of the Refugee Affairs in the Korean Ministry of Justice

As the table of the refugee applications by year, the number of refugee applicants has increased more sharply since 2013, shortly after the implementation of the Refugee Act. This was far more than expected by the government²⁵ and the National Assembly when the Act was enacted. The global trend of the increase of refugees was also a factor that cannot be ignored due to the rapid increase in the number of refugee applicants between 2011 and 2015. During the period, the number of forced migrants surged from 40 million in 2012 to 65 million in 2015, due to political unrest in the Middle East, Africa and East Asia.

However, the essential problem was that the increase in the number of refugee applicants in Korea was faster than the increase in the number of international refugee. The number of refugee applicants worldwide has increased by about three times from 2010 to 2015, but the number of refugee applicants in Korea has more than increased by about 14 times during the same period. The increase is related to the improvement of refugee status under the Refugee Act, which appears to be a major problem immediately after the implementation of the Refugee Act.

Besides the surge in refugee applicants, the increase in objection and administrative

²⁴ Statistics of Division of Refugee Affairs in Ministry of the Justice
(http://www.index.go.kr/potal/main/EachDtlPageDetail.do?idx_cd=2820)

²⁵ According to the National Assembly minutes, the annual number of asylum seekers expected to be around 300 to 700 in the course of discussing the enactment of the Refugee Act.

litigation seems to be a significant problem. The reason for this is that the Refugee Act also guaranteed the status of the applicants and those who are in the process of administrative judgment and administrative litigation. Statistics from the Ministry of Justice show that in 2015, the number of cases of cancellations for non-refugee decisions has almost increased by 10 times compared to 2011.

<Table 9 The Number of Administrative Litigation of Unrecognized Refugees by Year>

Year	The Number of Cases	Category			
		Admission	Dismissal	withdrawal	Etc.
2011	136	12	87	14	23
2012	202	19	125	22	36
2013	163	7	105	43	8
2014	425	3	235	49	138
2015	1.221	10	662	92	457

Sources: Division of the Refugee Affairs in Ministry of Justice

ii) Status and Problems of Abuse in the Refugee System

Under the Refugee Act, applicants for refugee status will not be repatriated by force, and they will be allowed to stay in Korea legally until a decision on whether to admit refugees is finalized, and support for living expenses and employment activities will be guaranteed for a certain period of time. Although there are no special reasons to apply for refugee after long-term illegal immigration, the number of foreigners using refugee applications for extended stay or economic purposes is attributable to the surge in refugee applications. In particular, the number of refugee applications has been increasing since they were rejected due to no restriction on the time or number of applications for refugees under

the Refugee Act, as well as because of repeated applications for refugees without any special changes in their circumstances after all of the procedures for objection and administrative litigation.²⁶

As of the end of 2015, Korea's refugee recognition rate (the ratio of refugees to those who applied for the end of the examination) is 7.2% (the ratio of refugees to those who applied for the end of the examination is 576 out of 8,001) and the rate of protection of refugees including 910 of those who applied for the end of the examination is 18.6% (8,648 who applied for the end of the examination).²⁷

This indicates that more than 80 percent of the refugee applicants are not recognized as refugees or humanitarian residents, and that more than half of the refugee applicants could be classified as economic migrants who wish to stay here for the purpose of employment, and that many of them are abusing the refugee system as a means of prolonging their stay, arguing that it is difficult to be recognized as refugees or false facts. The same is true of the cancellation procedure for the treatment of disenfranchised refugees, which will take at least one year until the court's ruling, and only 2%²⁸ of the refugee applicants who filed the cancellation suit will be granted refugee recognition by winning the case.

Due to such abusive refugee applicants, the number of unappreciated refugee applications has continued to increase since the implementation of the Refugee Act, and the Ministry of Justice has continuously reinforced the screening personnel for reasons that the examination period has been delayed. The Seoul Immigration Office, which receives most of the applications for refugees received in Korea, had only three auditors in 2011, and increased to 23 in 2016. From 2015, seven public utility officers were also assigned to the Division of the Refugee Affairs in the Ministry of Justice, which is in charge of receiving and

²⁶ Jeewon Min, op.cit 19

²⁷ Statistics of Division of Refugee Affairs in Ministry of the Justice (http://www.index.go.kr/potal/main/EachDtlPageDetail.do?idx_cd=2820)

²⁸ only 77 cited cases out of 3,550 cases filed from 2011 to June 2016(Division of Refugee Affairs)

examining most of the requests for refugees received in Korea.

Meanwhile, the Administrative Court, which handles the case of refugees, set up four refugee affairs courts in 2011 to exclusively handle refugee cases, and in 2016 a separate translation and translation support center. And most of the budget for the legal structure allocated to the Seoul Administrative Court is being allocated to the petitioners to prevent the delay of the trial process due to the failure of the refugee claimants to actively cooperate with the procedure.

These abusive refugee applications not only result in unnecessary waste of administrative power required for the screening and disobeying procedures, but also damage to genuine refugees and other people and foreigners who must be protected, including delays in procedures, inefficient allocation of administrative resources, and the government's ability to control foreigners' domestic spending in the direction of integrating them into the national interest has necessitated measures.

3. The Current Situation of Korean Refugee Act and Policy

1) Process of the Refugee Application and Screening

i) Procedures of Refugee Application at the ports

In Korea, there are two ways to the refugee application: at the port of entry and in immigration office after the entry. In case of applying for refugee at the port of entry, the procedure is to decide whether to refer the person who submitted the application for refugee

recognition at the port of entry²⁹ to the country prior to the entry examination under the Immigration Law.

Those who want to apply for refugees at the ports must apply for refugee status by themselves, and under the Korean civil law, minors (under 19 years of age) may apply for the application by themselves or their legal representative. However, in the absence of a legal representative, certain guardian can apply for the application in accordance with Article 142 of the Civil Act, and the right of the applicant is guaranteed, including the right to consult a lawyer when the refugee applicant for the port of entry requests for access to a lawyer.

Those who apply for refugee at the port of entry and exit should receive the 'refugee examination' step at the port within seven days, but they may not be referred to the refugee examination if the reasons do not fall under the Refugee Act or the Refugee Convention (including Refugee Protocol). In this case, the examiner decided not to attend the meeting after a brief interview with the applicant, limiting indiscriminate applications for refugees and enforcing the system. The port of entry and exit determines ①whether the definition of refugees in accordance with Article 2 of the Refugee Act, and ②whether the reasons for restrictions on the recognition of refugees under Article 19 of the Refugee Act are applicable, and ③whether the reasons for non-compliance are applicable under Article 5 of the Enforcement Decree of the Refugee Act.

In case of entering Korea by the result of examination at the port, the person to whom the referral is determined shall be recognized under the Refugee Act as the status of the "Refugee applicant" and shall be reviewed for refugee applicants in accordance with the "application and examination procedure in Korea." The person who has decided to refer the document is deemed to have accepted the application for refugee recognition at the

²⁹ Article 2 No. 4 of the Refugee Act defines the concept of refugee applicants as those who are in the process of an ongoing review of refugee recognition applications, so those who are in the screening process are not included in the refugee applicant's concept

immigration offices, and it is unnecessary to apply for separate refugee recognition. However, if the immigration at the port fails to decide whether to refer the case within seven days, the applicant shall enter the country and apply for the approval of the refugee from the competent immigration office.

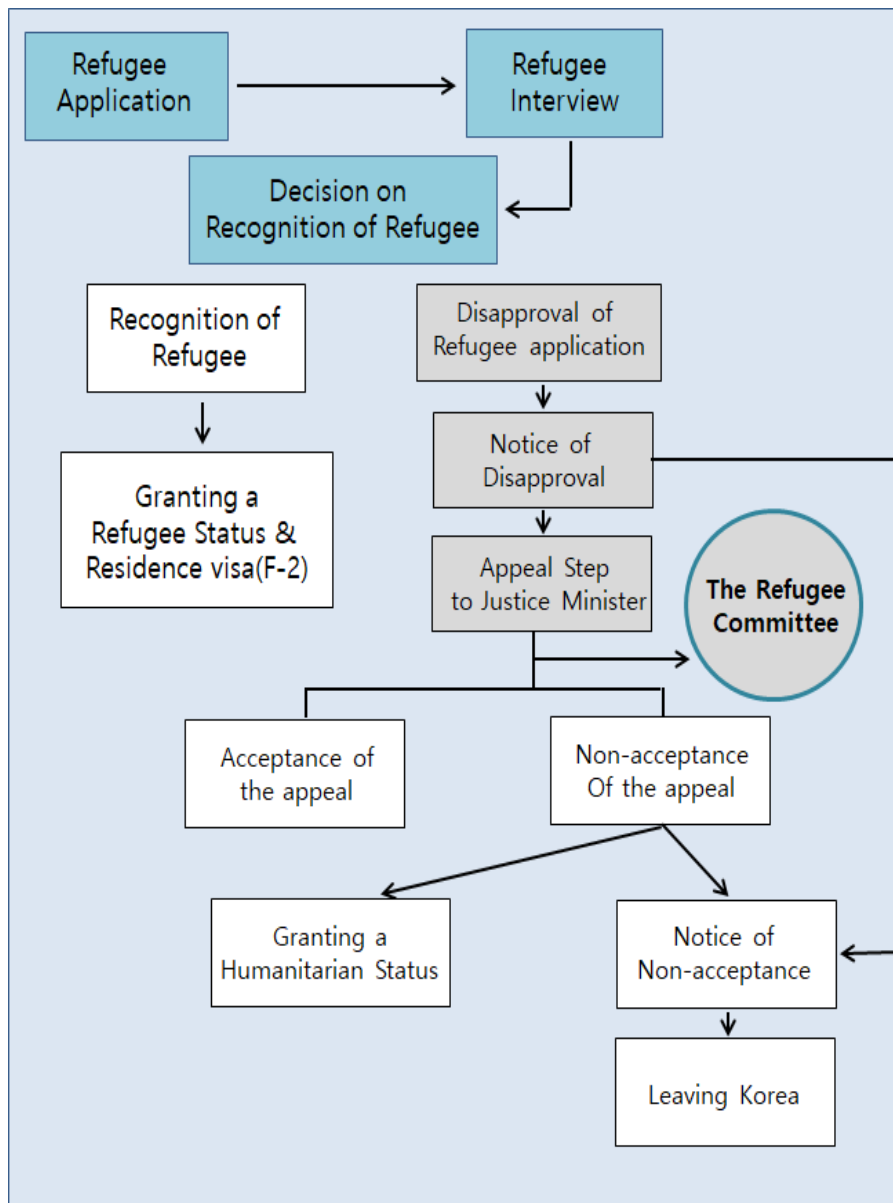
ii) The Refugee Application after the Entry

Those who are eligible to apply for refugee applications in Korea after entering Korea include foreigners who are staying in Korea (including illegal aliens and illegal aliens) and those who apply for admission to the port of entry who have not decided whether to refer to the screening of refugee status within 7 days after the application was submitted.³⁰ Those who want to apply for refugee status in the appropriate capacity shall be required to apply in writing at the relevant immigration office.

Meanwhile, when the application for refugee is completed, refugee review will be conducted according to the schedule of interview for refugee applicants at the relevant office. The refugee applicant has the opportunity to state in detail all the facts in favor of him or her of being assigned a language interpreter. Therefore, the refugee applicant should actively prove the truth, validity and reasons for persecution of the application for refugee recognition through interview. Below is a series of processes from application for refugee in Korea to examination and results.

³⁰ Article 5-6 of the Refugee Act: Foreigners who have entered the country after receiving a decision to refer them to the port of entry are deemed to have applied for refugee recognition on the date of the decision, so there is no need to submit a separate application for refugee human rights.

<Table 10 The Refugee Application Process in Korea >



Source: The Ministry of Justice, 'Guidelines for Refugee Recognition Procedures for Refugees, Indigenous Residents and Refugees Applicants (2017)

iii) The Refugee Examination

The examination and determination of refugee applicants are handled by the head of the local immigration and foreign missions delegated by the Minister of Justice pursuant to Article 46

of the Refugee Act and Article 24 of the Enforcement Decree of the Refugee Act, and the decision to recognize refugees shall be made within 6 months from the date of receipt of the Office for Refugees' Mental Administration, and, in the inevitable case, extended by a period of 6 months.

After the interview with refugee applicants, the head of the refugee inspection agency reviews the contents of the refugee examiner's report and decide whether to approve the refugee. If it is recognized that a decision on whether to recognize refugees is necessary, it can be consulted by related agencies and private refugee experts, but in principle, the decision to recognize refugees within six months from the date of receiving the application for refugee recognition is required. If the decision is made to recognize refugees through this process, the refugee certificate shall be granted to the applicant for refugee status.

If a person decides not to be a refugee, he shall issue a notice to the refugee applicant stating that he or she can file an objection within 30 days. The Attorney may make a decision not to accept a refugee if the applicant is a refugee, even if he is a refugee, has considerable reasons to admit that,³¹

- Protection or assistance is currently received from any other organization or institution of the UN in addition to the UN Refugee Organization. Except in cases where the status of the person currently receiving such protection or assistance is suspended for some reason without final settlement in accordance with the relevant resolutions adopted by the United Nations General Assembly.
- Crimes against world peace, war crimes or crimes against humanitarianism as provided by international treaties or generally approved international laws
- if an act is contrary to the purpose and principles of the UN
- The Committee on Refugees of the Ministry of Justice is in charge of deliberations on the objection. Fifteen members of the Committee of Refugees are appointed and

³¹ The Ministry of Justice, 'Guidelines for Refugee Recognition Procedures for Refugees, Indigenous Residents and Refugees Applicants (2017)

commissioned by persons with extensive expertise and experience in refugee work, including lawyers, university professors and refugee experts.

iv) Appeal System

Those who have been granted refugee status or those whose refugee recognition has been cancelled may file an objection with the Minister of Justice within 30 days from the date of notification, in which case they shall submit the request to the head of the local immigration with data stating the reason for their objection. When the objection is filed, the Minister should refer the petition to the refugee committee without delay, and decide whether to approve the refugee status after deliberation by the refugee committee. The Minister of Justice shall make a decision on the objection within 6 months from the date of receipt of the application for objection. If the decision can't be made within that period due to unavoidable circumstances, it may be extended by setting a period of 6 months.

The Refugee Committee shall consist of one chairman and no more than 15 members, who are qualified to become a lawyer, who has been in a position greater than an associate professor³² teaching law at a university, who has been in charge of refugee-related affairs, and who has specialized knowledge and experience in refugee affairs, or who is appointed or appointed by the Minister of Justice among others. The chairman is appointed by the Minister of Justice from among the committee members, and the member's term is allowed to serve for a second 3 year term. Further, a sub-committee can be held so that the review of objection can be carried out in a more in-depth manner after deliberation by sub-committees composed of experts from various fields prior to the full review of the refugee committee. Currently, 3 sub-committees in Asia, the Middle East and Africa are set up and operated. In connection with the review of objection in the past, there was a problem that there was not enough

³² The Higher Education Act, Article 2-1 and 2-3

chance for the applicant to be given an opportunity to the petitioners to make a decision on whether to recognize them based on data used in only the first review without an investigation of the claim made by the refugee applicant. In order to prevent the irresponsible review system, a refugee inspector³³ was appointed to the Refugee Committee.

The Refugee Committee shall vote on the appeal with the consent of the majority of the registered members and the majority of the present members, and the Minister of Justice shall respect the outcome of the review to the extent that it is deemed that it is not feared to harm national security or public welfare. The Minister of Justice shall make a decision to recognize the refugee status if the objection of contestants is recognized for a reason, and issues a certificate of refugee recognition to the contestant. On the other hands, if an objection is unsuitable, the decision is made to reject, and the notice of rejection is issued to him.

v) Procedures for Litigation of Unrecognized Refugees

The Refugee Act does not provide any specific provisions regarding the proceedings of the refugee trial, except the Article 23 states that the court makes a decision not to disclose the trial, if it is necessary for the safety of the refugee applicants or his family. Usually, refugee trials will have the form of a cancellation suit against the administrative office's disposition of rejection, as they will be contested by a cancellation suit for the decision to deny refugees, and the administrative litigation law basically rules the procedure of the trial procedure. The applicant may file a suit without going through an appeal system through the Refugee Committee or after filing an appeal system. If an applicant who is not recognized refugee by Immigration Office has filed a cancellation suit within 90 days from the day he or she receives a notice of rejection or within 90 days from the date of receiving a notice of non-

³³ The refugee inspector is in charge of the committee other than the investigation into the objection under the order of the chairman.

recognition.

The cancellation suit of non-recognition decision on refugee status will be subject to the refugee trial for substantive and procedural illegality at the time of the decision's disposition. Usually, refugee trials are based on reasons stated at the time of the refugee application, and may occur during the course of a lawsuit if another reason is cited other than the one claimed at the time of application, or if a new situation has occurred. For example, in the case when applying for refugee status and interviewing, an applicant argued for religious persecution, but during the course of the lawsuit, the applicant suddenly asked for recognition as a refugee status due to political reasons. In this case, the timing of determining whether an unauthorized refugee decision is illegal or the effect of a definitive ruling becomes an issue in the decision.

There are no other special procedures in connection with the refugee trial. However, most refugee applicants rarely prove their claims through written evidence or witnesses in connection with the persecution, and it is generally determined by the refugee applicant's own statement in the interview in addition to data on the circumstances of his or her nation. Therefore, accurate interpretation is essential to understand the statement about the persecution of applicants who do not properly speak Korean and to judge the consistency or credibility of their statement. As such, the importance of interpreters is emphasized in refugee trials, unlike other administrative lawsuits. Therefore, the main question is how to select and manage interpreters and how to guarantee the accuracy of interpretation contents in the trial process. In addition, many refugee applicants do not have lawyers because of their insufficient budget. Article 12 of the Refugee Act guarantees the right of refugee applicants to be assisted by lawyers, but it is a reality that conflicts not only with the purpose of the legal system for the refugee applicants but also with the government budget situation.

2) The Refugee Status and Social Treatment in Korea

i) Recognized Refugee Status

In Korea, the person recognized refugee refers to a foreigner who has been recognized as a refugee under the Refugee Convention.³⁴ Those who have been granted refugee status by the Korean Government will be granted a visa.³⁵ Those who are eligible to stay in Korea are basically guaranteed a 3 year stay period and are allowed to stay in Korea for an extended period until the reason for their refugee status expires.

Meanwhile, treatment under the Refugee Convention will be applied to those who stay in Korea with priority over other laws.³⁶ In addition, refugees can receive a level of social security equal to the Korean.³⁷ Specifically, if refugees' child is a minor, he or she can receive the same primary and secondary education,³⁸ and they can receive the necessary educational support according to the Presidential Decree. They can also receive social program, including Korean language class and job training as provided under the Presidential Decree.³⁹ If a spouse or an underage child of the recognized refugee wishes to enter Korea from another country, the government must grant permission to those families except they are not subject to Article 11 of the Immigration Law.

ii) Humanitarian Status Holders

³⁴ The Refugee Act, Article 2

³⁵ Visa Code F-2-2(residence visa for un recognized refugees)

³⁶ The Refugee Act, Article 30

³⁷ The Refugee Act, Article 31

³⁸ The Refugee Act, Article 33

³⁹ The Refugee Act, Article 34

Humanitarian status holders are differentiated from those who are recognized refugees and are not eligible for full refugee status. According to Article 2 paragraph 3 of the Refugee Act, humanitarian refugee holders are not eligible for recognized refugees, but a foreigner who has a reasonable reason to admit that he or she can be significantly violated by persecution or inhumane treatment, punishment or other circumstances of his own country, and has been granted a temporary stay permit by the Minister of Justice under the Presidential Decree. Humanitarian status holders are granted a visa,⁴⁰ which is different from those for recognized refugees (F-2-4 visa), and can be extended within a one-year period each time. While humanitarian status holders are allowed to work under Article 39 of the Refugee Act in spite of their social rights are mostly limited. As a result, in the case of humanitarian donors, social treatment other than those who are recognized as refugees is not eligible for social security and health insurance benefits, which makes it difficult to go to hospitals even if they are ill. There is also inconvenience of having to renew the visa every year.

iii) Refugee Applicants

"The refugee applicant" refers to a foreigner who has applied for refugee status in Korea. Under the Refugee Act, applicants for refugee status are banned from employment for 6x months after applying for refugee status, so it is difficult to live without living expenses for these 6 months. For this reason, refugee applicants can receive support for their livelihood as provided under the Presidential Decree by the Minister of Justice and, if it is 6 months from the date of application for refugee recognition, a work permit⁴¹ can be obtained according to the Presidential Decree. The government can set up residential facilities for

⁴⁰ Visa Code G-1-6(residence visa for the Humanitarian status holders)

⁴¹ The Refugee Act, Article 40

Refugee Applicants and operate it according to the Presidential Decree.⁴² Medical assistance is also available if refugee applicants urgently need hospital treatment,⁴³ and if there is an underage person among their families can receive the same level of primary and secondary education as the Korean people.⁴⁴ Article 17 of the Refugee Act provides support for living expenses to the extent that they do not exceed 6 months from the date of submission of the refugee status. In cases where support for living expenses, such as serious illness or physical disability, is still needed, the period of support for living expenses can be extended to a period not exceeding 6 months. This financial support shall be paid to them as differential assistance, taking into account the duration of the refugee applicant's stay in Korea, employment activity, use of refugee support facilities, dependents' presence and living conditions.

Meanwhile, the Immigration Service Center for refugees was built on Yeong-jong Island in Incheon in September 2013, but it started to operate in February 2014 due to opposition from residents. It was built for basic livelihood support, such as accommodation, medical care, education, and training of immigration officials in the early stages of entry. Despite being a refugee treaty country, Korea was continuously criticized by the international community for not providing even the minimum livelihood support for refugees until the center was built. The establishment of an immigration support center not only allows early settlement of refugees but also provides an opportunity to enhance Korea's international status as a human rights state. Those who apply for refugee recognition at immigration ports, refugee applicants who apply for asylum 90 days after entering the country, and those who need humanitarian assistance such as child care or pregnancy, can apply for admission. Those who enter the Immigration Service Center can stay in the living room and it operates medical

⁴² The Refugee Act, Article 41

⁴³ The Refugee Act, Article 42

⁴⁴ The Refugee Act, Article 43

support services and religious rooms in cooperation with hospitals around the center to ensure freedom of religion for refugees. It also pays 70 percent of the educational support service and living expenses support standards to enable people to live in Korea. In 2016, there were 114 entrants at the Immigration Service Center, 106 who were expelled, many refugees from the Middle East and Africa, and a number of family units accompanied by women and children. In 2016, 115 people applied for admission to the Immigration Service, 114 of whom were approved to enter, and 62 of them withdrew themselves.⁴⁵

To sum up, social treatment is being done to those who apply for refugee status similar to refugee applicants. Therefore, the applicant for refugee status is also a refugee. However, if a visa is issued that allows a person to stay in the country that applied for refugee status, he or she will be able to settle down as a refugee. Prior to that, a refugee applicant could be placed in a precarious situation where he or she might be deported.

⁴⁵ Statistics of Nansen Human Rights Center(<https://nancen.org/1520>)

III. COMPARISON OF REFUGEE POLICIES IN MAJOR COUNTRIES

1. The Current Refugee Situation in the World

Starting with Syrian refugees caused by Syria's civil war in 2011, refugees have emerged as the top topic of concern around the world.⁴⁶ Even now, , hundreds of refugees are wandering aimlessly on boats in the Mediterranean, and caravan refugees trapped in U. S. - Mexico border barriers continue their daily lives in makeshift shelters in Mexico. As the years go by, the refugee issue has become a matter for the international community to be resolved as soon as possible, but each country is consolidating its stance against them. In Europe, economic difficulties and rising unemployment have increased antipathy toward refugees and affected Britain's exit from the European Union. Even German Chancellor Merkel who was friendly to refugees, said, "It may be difficult for a foreign culture to coexist peacefully." The U.S. Trump administration controls the Mexican border, is at the touch of social unrest caused by Muslims and illegal immigrants, and in Bangladesh, Rohingya refugees are a political variable.

According to the annual report of the UNHCR⁴⁷ released in 2018, a total of 68.5 million forced migrants were counted in 2017. That's a 16.2 million increase over the previous year, and it's hitting an annual high. A detailed look at the 68.5 million population shows that 25.4 million of them are refugees-defined,⁴⁸ but they are forced to leave their

⁴⁶ Kathleen Newland, *New Approaches to Refugee Crises in the 21st Century: The Role of the International Community*, 2016. Chapter 2 'Existing Interventions'.

⁴⁷ The UNHCR Announcement of Force Migrant Annual Report 2017 Status

⁴⁸ The Refugee definition includes the description of 'the Refugee Convention', 'the Refugee Protocol' and 'Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa'.

home country or the area they live in, according to the definition of refugees. The remaining 3.1 million are asylum-seekers who have applied for refugee status in other countries and are waiting for the results of their application. Particularly noteworthy in the report is the numerical representation of the countries that have over-accepted refugees. According to the data, the country with the highest refugee acceptance rate in the world compared to its own population, ranked 1st with Lebanon, with one out of six people living in the country being refugees. The second is Jordan, with one out of 14 people coming in third with Turkey, with one out of 23 refugees.

Despite the rapid increase in the number of world refugees, nine of the top 10 countries⁴⁹ that have embraced them are developing countries except Germany. This means that advanced countries are passive in accepting refugees. According to the UNHCR report, a total of 1.7 million people applied for refugee status in 2017, of which more than half, 1.05 million applied for refugee status in 36 OECD countries, the United States (331,669), Germany (198,317), Italy (126,466), Turkey (126,050), France (93,031) and Greece (56,953). However, in 2017, the average refugee acceptance rate among OECD members was about 30.9 percent, followed by Turkey (94.9 percent), Lithuania (74.5 percent), Canada (66 percent), and Israel (0.1 percent), Japan (0.2 percent) and Korea (2.0 percent),⁵⁰ which makes Korea one of the countries with the lowest refugee rate.

With the low refugee recognition rate of advanced countries, the UN has moved to define the refugee issue as an urgent matter and recommend member states to accept refugees for an early resolution. It is the official adoption of the Global Compact on Refugees at the 73rd General Assembly of the United Nations on Dec. 17, 2017 to urge countries to take

⁴⁹ World Refugee Acceptance Ranking(2017 UNHCR): ①Turkey (3.5 million), ②Pakistan (1.4 million), ③Uganda (1.4 million), ④Lebanon (1 million), ⑤Iran (980,000), ⑥Germany (930,000), ⑦Bangladesh (930,000), ⑧Sudan(900,000), ⑨Ethiopia (880,000 million), ⑩Jordan (690,000)

⁵⁰ In 2017, there were 9,942 new refugee applicants in Korea, of whom 121 were recognized as refugees (Division of the Refugee Affairs in the Ministry of Justice).

measures to accommodate refugees and jointly cope with them. The GCR aims to ease the burden of refugee camps, promote refugee independence, ensure access to third countries and return safely and dignity. The pact is not legally binding, but it calls for the UN member states hold ministerial-level meetings every four years to share the practical needs of refugee-accepting countries. Although 181 countries, including Korea, voted in favor of the agreement, the U.S. has expressed opposition, raising questions about its effectiveness. However, as the UN stands out in its commitment to resolving refugees, there are expectations that the refugee issue will move forward in the future.

2. Refugee Policies in Major Countries

1) Lebanese Refugee Policy

The Lebanese government is facing a national crisis due to a massive influx of refugees from Syria's civil war. Syria's civil war that broke out in March 2011 left about 36.56 million people dead by 2018,⁵¹ with a total of 4.06 million refugees fleeing to neighboring Arab countries, of which 1.113 million are registered in Lebanon. There have been 10 UNSC meetings to resolve Syria's civil war, and the international community has continued to provide tens of billions of dollars in aid, but it is still not easy for the civil war to end.⁵²

Lebanon was a small country with a population of only 6 million as of 2018, but Syrian refugees, which account for about one-sixth of Lebanon's population, were brought into the country because of its closest neighbor. The influx of large-scale refugees into

⁵¹ Syrian Observatory for Human Rights(SOHR) officially counted 365,679 deaths between 2011 and 2019, but estimates that the number of deaths, including unofficial ones, reached 560,000.

⁵² UN Launches Biggest Humanitarian Appeal, Fearing Deepening of Syrian Crisis, UNHCR, <http://www.unhcr.org/52aeee8e9.html>.

Lebanon, which is only 1/18th of Syria's territory, has forced Lebanon to deal a serious blow to its political, economic and security sectors.

For the Lebanese government, Syrian refugees were a challenge. Amid the divide between acceptance and prevention, the Lebanese government made a bold decision to accept refugees humanely, despite the fact that the Syrian refugee issue was a factor in the nation's survival. At the same time, Lebanon's humanitarian policy on refugees was in contrast to Europe's anti-immigrant policy, which made it even more prominent in the international community.

***The Lebanese Refugee Policy against Syrian Refugees**

Until the early days of the Syrian civil war, the Lebanese government was relatively tolerant of the influx of Syrian refugees. But the prolonged civil war in Syria continued to bring in Syrian refugees, and the suffering of the Lebanese people, was aggravated as their influx was out of control. By October 2014, the Lebanese government will take special measures in Syria's refugee policy. It was three anti-Syrian refugee control policies.⁵³

The first is to block the flow of Syrian refugees. The government has blocked all refugee flows to the Lebanese border except in humanitarian cases. With the cooperation of the UNHCR, it also banned the registration of Syrian refugees, which was not approved by Lebanon's social minister. Second, it has banned all illegal labor of Syrian refugees. Lebanon's labor market was devastated by the influx of more than 1.5 million Syrian refugees, including unregistered refugees. The youth unemployment rate soared to 37 percent in 2017 and the suffering of the Lebanese poor deepened as Syrian refugees monopolized labor in Lebanon's primary industry. In order for Syrian refugees to get a job in Lebanon due to the

⁵³ Mary Ann Perkins and Tuesday Reitano, 'Exploring the Status of Syrian Refugees in Lebanon', Columbia SIPA, (http://jia.sipa.columbia.edu/online-articles/exploring-status-syrian-refugees-lebanon/#_ftnref3)

policy of banning illegal labor of Syrian refugees, a Lebanese who can guarantee Syrian refugees is needed, and only a day-to-day job such as agriculture and construction is allowed to be sought. Third, it was strict regulations on Syrian refugees. In the case of refugees who have violated Lebanese laws or re-entered the country after returning to Syria, they are deprived of their refugee status. In addition, the General Security Agency (General Security) tightened the conditions for issuing visas for entry into Lebanon as of January 2015. The National Security Agency has issued working visas for Syrian refugees who are engaged in social activities and want to live in Lebanon. A housing guarantee (Syrian refugee residence) and residence certificate, which were signed by the Lebanese people who could guarantee their refugee status, and a six-month temporary residence visa, were required. A Lebanese guarantor has only allowed Syrian refugees to enter the country after preparing all documents and submitting them to a National Security Agency checkpoint and receiving a visa stamp. Even when the period of stay expired, he visited the National Security Agency and took steps to pay the registration fee and extend the period of stay before every expiration date.

Syrian refugees already residing in Lebanon had to go through the same process before the Lebanese government implemented its policy of refugees in January 2015. However, since the tightened control of Syrian refugees, it has not been easy for poor Syrian refugees to secure a Lebanese guarantor and a per capita registration fee. As a result, about 64 percent of Syrian refugees in Lebanon have been reduced to illegal aliens, and there have also been other social problems, such as forging visa issuance documents for the National Security Agency.

2) Japan: Leading Refugee Policy in Asia

Japan had 19,628 asylum seekers as of 2017, but only 20 of them were recognized as

refugees,⁵⁴ showing the lowest refugee recognition rate along with Korea. In Asia, there are five countries that have joined the Refugee Convention, which is the basis for the implementation of refugee policies: Korea, Japan, China, Cambodia and the Philippines. But Korea and Japan are the only countries that provide data from the UNHCR in the operation of refugee policies. Japan's major refugee applicants are mainly from Turkey, Nepal, Myanmar and Sri Lanka, which feature many Asian nationals.

As defined in Japan's refugee recognition system, Article 2-3 of the Immigration and Refugee Recognition Act stipulates that "the refugees subject to the Refugee Convention by the provisions of Article 1." The Japanese government ratified the International Convention on Human Rights in 1979 and joined the Convention on Refugees in June 1981 and the Protocol on the Status of Refugees in 1982. Thus, the revision of the Korean law in 1982 was made, which continues to date with the Immigration and Refugee Recognition Act.

***Refugee Application and Admission System in Japan⁵⁵**

In Japanese refugee-admission system, the Ministry of Justice is in charge of refugee screening, while the Foreign Ministry oversees refugee resettlement support projects. The consultative body of refugee policy has a meeting for coordinating the contact for refugees, which is set up under the Cabinet, and discusses and decides practical matters concerning the refugee policy as a whole. In the case of the refugee resettlement support project, the refugee project headquarters of the Asian Welfare and Education Foundation, a foundation commissioned by the Foreign Ministry, is fully implemented. The resettlement support program consists of Japanese language education, orientation in Japanese life, job counseling

⁵⁴ As of 2016, 28 of the 11,000 asylum seekers in Japan were recognized as refugees, marking a drop in the 2017 refugee recognition rate from a year earlier," (Japan's immigration office and the Guardian report, <https://www.theguardian.com/world/2018/feb/16/japan-asylum-applications-2017-accepted-20>)

⁵⁵ Saburo Takizawa, Japan's Refugee Policy: Issues and Outlook, Toyo Eiwa University, 2018, 7-9.

and job placement. Support for refugee applicants is mainly provided by civic groups.

As for Japan's refugee recognition process, the applicant for refugee status must visit the local immigration office and the immigration office in person to receive the application form and related documents. It is also possible to apply for refugee status at the airport. Then, they will have a meeting with the refugee examiner to verify individual reasons. In the event of refugee recognition, the applicant will receive a certificate of refugee recognition and, in the case of failure to receive refugee recognition, will be notified in writing of the reasons for not granting refugee recognition. Applicants who have not received refugee recognition may file an objection within seven days of the notification date.

Protective measures for refugee applicants are provided with living expenses (a certain amount), housing expenses (a certain amount), and other protection expenses. In the event that the refugee applicant fails to establish a residence, he or she can temporarily live in an "urgent accommodation for the refugee applicant." In principle, the funding has been paid only for four months, which shows the vulnerability of the social stability network of asylum seekers, given that the average duration of refugee recognition is 13 months. Japanese language education is provided to refugees for smooth settlement in Japan. And the RHQ Center, a refugee resettlement support center run by the refugee business headquarters, has been providing programs necessary for the resettlement of refugees in Japan for six months.

Meanwhile, the UNHCR's representative to Japan officially requested the Japanese government to introduce the resettlement system in 2007, which led to a full-fledged resettlement program. When the Ministry of Justice requests the recommendation of candidates for resettlement, the UNHCR will select those who meet the selection criteria presented by the Japanese government, and after the screening, contact the target to confirm their wishes after introduction and explanation. If selected as the final candidate for the interview through a review of documents by the Ministry of Justice, the interview will be

conducted by a legal staff dispatched from the IOM facility in Mehap, located near the Mehra camp in Thailand. The selected retiree will receive a medical checkup by the IOM, and if it passes the course, it will receive basic training in Japanese society before leaving the country. Cultural and language training will take place for about a month and the necessary procedures for leaving the country will be required to complete a six-month resettlement support program after entering the country, with the IOM in charge of providing assistance. Japan's implementation of such a resettlement program for the first time in an Asian country suggests some areas to be considered in Korea, which has an independent refugee law. It also suggests that cooperation among ministries and agencies should be preceded by a clear target setting at the national level for the introduction of the new system.

3) German Refugee Policy in Europe

Germany is one of the countries that have the largest number of refugee applicants in the international community. The number of asylum seekers in Germany since 2010 reached a record high of about 700,000 in 2015 amid an increase in the number of asylum seekers.⁵⁶ However, as the social problems caused by refugees gradually arise, the number of asylum seekers has shown a declining trend. Some 186,000 people applied for refugee status in 2018, down about 16.5 percent from 2017.

Although the number of asylum seekers is decreasing due to Germany's tightened refugee policy, it is necessary to find out why refugee applicants prefer Germany. Germany is implementing Article 16a of the Constitution, the Protection Procedure Act of 1982 and the Foreigner Act of 1991 under the Domestic Act on the Protection of Refugees. Germany's Constitution and Protection Procedure Act stipulates the implementation of the Dublin

⁵⁶ Marcus Engler, Germany in the refugee crisis, Heinrich-Böll-Stiftung Warszawa, 2016, 2.

Convention and the Schengen Convention on the Protection of Refugees. This law means that it has historically been a refugee-friendly country.⁵⁷

The country began accepting refugees in 1951, and over the next two decades there have been many applications in the mainly communist East, and since the mid-1970s, the number of non-compliant applicants has surged to 50,000 in 1979 and 100,000 in 1980. Due to the effects of the end of the Cold War in 1989, the situation in the Balkans and the reunification of Germany in 1990, the number of applicants for protection reached about 440,000. Since then, there has been a revision to the law to bruise the increase in refugees, which has led to a decline in the number of applicants, but still has more than 20,000 applicants per year.

Germany, which escaped persecution in its own country under the Nazi regime during World War II, has been responsible for protecting those seeking protection from political persecution from its historical background. Article 16 of the Basic Law of the German Federal in 1949 provided a progressive clause recognizing non-compliance as individual rights, saying, "Those who are politically persecuted enjoy the right of protection." However, the German federal government enacted the Act for asylum seekers (Asylverfahrensgesetz Act) in 1982 to control abuse of non-compliance, resulting in problems such as a surge in the number of applicants for protection since 1979 and a prolonged period of screening, a shortage of housing and a surge in the cost of ensuring living during non-compliance. In 1993, Article 16a of the Basic Law was amended to specify the principle that it would not be protected if it entered Germany via a safe third country and in 1994, the Non-compliance Act and the Immigration Act were also. It also denies the public's request for protection of a country designated as a safe country of origin by defining a safe country of origin. At the same time, by significantly reducing the amount of material concessions given

⁵⁷ Marcus Engler, op.cit. 3

to refugees, they used a defense strategy to force them to abandon their exile and return to their home country or third country. Therefore, refugee applications have dropped sharply since 1993.

In 2005, the Immigration Act, which is the basis for the current acceptance of refugees, was enacted, which reorganized the existing Federal Bureau of Refugees into a federal immigration office, took charge of foreign affairs, including refugee recognition procedures, and added persecution for gender reasons.

***Refugee Application and Admission System in Germany⁵⁸**

Germany's refugee application and recognition procedures are as follows. First, refugees applying for protection in Germany must apply to the Federal Immigration and Refugees Office. When applied, fingerprinting and photography will be conducted, and if the application is found to have been made to other countries in the process, the application will be rejected under the Dublin Treaty and sent back to the country it initially applied for. If the eligibility of refugee applications is determined, temporary permission to apply for refugee status will be granted until the final results are made, and those who apply for refugee status will be sent to the nearest primary support facility. After submission of the application form, interviews are prescribed by law within two to three days, and meetings are conducted by staff and interpreters of the Federal Immigration and Refugees Office. Applicants may be accompanied by lawyers and UNHCR staff as necessary. The applicant's statement in the interview is translated into the applicant's native language and given to the applicant in writing and the Federal Immigration and Refugees Office makes a decision after conducting an investigation to verify the facts, if necessary, after the interview. According to the German

⁵⁸ Marcus Engler, German Asylum Policy and EU Refugee Protection: The Prospects of the Common European Asylum System, University of Osnabrück, 2015, 2-4.

Immigration Service, the screening period takes about three months on average.

Meanwhile, if recognized as a refugee, he will be granted a three-year visa. Even if refugee recognition is denied, a stay is permitted as an exception to deportation if there is a direct and specific risk of urgent torture, death penalty, inhumane, cruel treatment or punishment, or life and body freedom under Article 60 of the Residence Act. As a rule, six months and longer periods require the consent of the Federal Department. If refugee recognition is denied and no other stay permit is granted, the notice of departure is granted, and the applicant may file a suit with the Administrative Court if he does not appeal. Approximately 62 percent of the applicants who received the notice of departure apply to administrative appeal or administrative litigation against their disapproval decision.

***Refugee Facilities⁵⁹**

The applicant for refugee status is provided under ‘Asylum Procedure Act’, in which each state or NGO manages and operates refugee support facilities. Applicants will enter camps that are dispersed across Germany for 16 weeks. The budget for refugee assistance is not distributed by the federal government, and supports the life of refugee applicants by revenue from each state. Most refugee support facilities are located in the city center and can stay until the refugee application process is completed. So far, services such as ceremonial stocks, medical checkups and counseling on legal procedures for refugee recognition are provided, while education, vocational training and language education are mostly conducted by NGOs. The refugee applicants will basically stay at the nearest primary support facility for about three months during the refugee screening process, and in the absence of income and property,

⁵⁹ Bokshi, Elona (2013), Refugee Resettlement in the EU: The Capacity to Do It Better and to Do It More, Research Report 2013/04, KNOW RESET – Building Knowledge for a Concerted and Sustainable Approach to Refugee Resettlement in the EU and its Member States, Marcus Engler, op.cit. 8.

they can receive assistance from the government. If the recognition process takes more than three months, it will be moved to a joint residential facility. During their stay at a refugee support facility, a refugee applicant cannot get a job without permission, but after one year of applying for refugee status, they can apply to the Immigration Office for a work permit. Although refugee applicants are not eligible for medical insurance benefits, they will undergo inspections conducted by the Ministry of Health for two weeks after they enter the facility. In addition, the refugee applicant may have freedom of movement in areas near the designated support facilities, but may not escape from the administrative areas where the facilities are located.

IV. THE INFLUX OF YEMENI ‘WAR REFUGEES’

1. Background of Yemeni Refugees’ entry into Korea

More than 2 million Yemeni refugees have been displaced by the escalating Yemeni civil war since March 2015. Though the damage to the civil war was considerable, it has been pushed away from the international community's attention due to major Middle Eastern issues such as the Syrian civil war and the emergence of Daesh. Yemeni civil war turned into a venue for resolving the bitter conflict between Arab Sunnis and Shiites, and it was a situation where the boring battle continued without a fundamental solution.

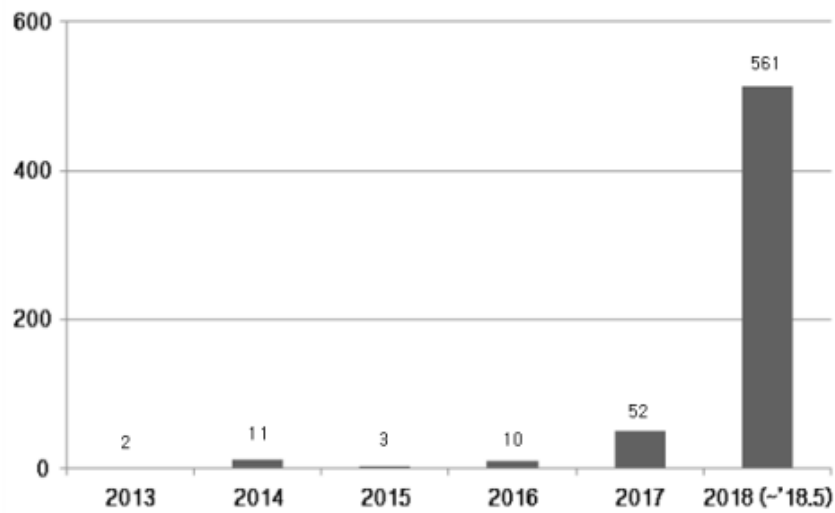
To make matters worse, it was hard to expect much support from the international community. The Syrian civil war has turned into a battleground for a powerful nation, and international support has been reduced due to keen interest. It was different in Yemen. Due to poor international aid, the Yemeni refugee issue has worsened. In particular, the damage to children is serious. According to the UNICEF report, a total of 500,000 Yemeni children are estimated to have died of malnutrition due to the war, with 2.2 million children undernourished since the Yemeni civil war. Simply put, one child is dead every 10 minutes.

Yemenis fled to neighboring countries where they could easily enter the country to avoid the horrors of the war shortly after the outbreak of the civil war. Until 2015, when the Yemeni civil war was in its early stages, Yemeni people's evacuation destinations were relatively diverse. There were Sudan that could enter the country without a visa, Jordan and Egypt, which were able to settle down through simple visa issuance procedures, starting with Djibouti, Malaysia and Ecuador. However, Malaysia is currently the only country where Yemenis can enter without a visa. As the war showed no signs of ending over the years,

refugees continued to increase, and the result was that neighboring countries no longer liked Yemeni refugees.

About 300,000 Yemenis were in Malaysia as of 2018, according to a message from Yemeni refugees on Jeju Island. However, many of them are illegal aliens. Malaysia, as the same Muslim country, has allowed them to enter the country humanely, but is not a Refugee Convention and has a far-reaching system of open immigration laws. Yemenis staying with the UN refugee status issued by the UN, refugee agency were unable to work themselves, and could not avoid a high fine or forced exit if they were found to be illegally employed. Yemenis in Malaysia are those who have long been in the country for three to four years as applicants for refugee status. The travel expenses they had left the country were already exhausted, and those who had a hard time living were forced to get a job illegally. It was impossible for him to stay stable as a disabled person when he entered the illegal job market. Against this backdrop, the launch of Kuala Lumpur (Malaysia) -Jeju (Korea) direct route in December 2018 was a ray of light for Yemenis. For those who dream of a new diaspora to a better place, the news is that Jeju Island is a safe haven. It is also known as a member country of the Refugee Convention. Korea is also seen as a safe country that protects human rights and good job conditions. At the coffee shop, Jeju Island is on the lips of a restaurant. SNS reports that "someone went to Jeju Island and some returned without entering the country," and updates the movements of Jeju Airport in real time. The Yemeni, who disguised themselves as tourists, prepared for the trip to Jeju Island as they were able to move even with relatively cheap airfare.

<Figure 1 Yemenis Entry to Jeju Island>



Source: Jeju Immigration office

2. Countermeasures focused on Yemeni Refugee Applicants

Korea was not a country that rejected the influx of war refugees itself, as it accepted refugees from Syria's civil war after 2011⁶⁰ as a humanitarian stay qualification. At the time of the influx of Syrian refugees, it was hard to find any voice against them and it was not a big issue for the nation. However, the Yemeni refugee case was different. Unlike Syrian refugees who entered the country for a long time with visas issued, "Refugees" quickly emerged as a hot potato in Korea after hundreds of Yemenis arrived in the country at once in a short period of time. In addition, the fact that they applied for refugee status under the guise of tourists by exploiting loopholes in the island's Visa-Free system further fueled anti-refugee public sentiment. There was also a sense of hostility toward News of the crimes of Muslim refugees has been re-lighted in Europe, and the reality has been harsher for Muslims, with the

⁶⁰ There were 1,325 Syrian refugee applicants from 2011~2018. 4 applicants were recognized most of them(1,120) got humanitarian status(The Division of Refugee Affairs)

addition of cultural characteristics emphasizing a single person.

The Ministry of Justice was urgent to take action against Yemeni refugees. The Yemeni, who succeeded in entering the country, immediately rushed to the Jeju Immigration Office and applied for refugee status. The tourists who arrived on Jeju Island without a visa were not allowed to go ashore, but refugee applicants were able to go straight. The advantage was obviously a loophole in the Korean refugee system. Yemen was no exception. Yemeni, who successfully entered Jeju Island using information obtained through SNS, began to move to land shortly after applying for refugee status.

The Ministry of Justice has restricted the release of refugees, including Yemenis, in Jeju Island as of April 30 to reduce illegal refugee applicants. Still, as the Yemeni march to Jeju Island, where conditions are better than Malaysia, the Ministry designated Yemen as a country that does not allow the Jeju visa system on June 1, blocking further Yemeni entry. The Yemeni procession stopped, and eventually the remaining 549 of the 561 Yemeni arrivals applied for refugee status.⁶¹

The Vice Justice Minister said in a press briefing on Yemeni refugees in Jeju (6.29).⁶² The Ministry of Justice's plan was divided into two major categories. From the macro level, it was a measure to improve the refugee system and measures against the Yemen refugee applicants. First, as a plan to improve the refugee system; ①Refugee Referee New establishment ②Establishment of a team for the collection and analysis of the state situation ③Refugee applicant illegal employment eradication plan. In addition, Yemeni refugee applicants' countermeasures include; ①refugee examination, expeditious treatment, ② resolution of the stay problem.

⁶¹ The Refugee Applicants statistics by Jeju Immigration Office

⁶² The Press Release Sources from the Division of Refugees Affairs, the Ministry of Justice, Website: <http://www.immigration.go.kr/immigration/1502>

1) Announcement of Measures to Improve the Refugee System

i) The Establishment of Refugee Tribunal

Under the current Korean refugee system, the refugee admission process from refugee application to appeal step or administrative litigation period takes up to three years. The Ministry of Justice expects that if the new system is established, the refugee screening system will be drastically revised, with a total of five stages to be screened, to be reduced to three to four levels.

***The Current Refugee System**

The person who has been determined not to be recognized as a refugee status or who has been revoked or revoked of refugee recognition may file an objection with the Minister of Justice within 30 days of receiving the notice, thereby raising objections to any errors in judgment in the refugee process. However, if a refugee applicant has filed an objection pursuant to article 21 paragraphs 1 of the Refugee Act, the Administrative Appeals under Article 21 paragraph 2 of the Refugee Act shall not be allowed to claim an administrative judgment under the Administrative Appeals Act. If an objection is received, it shall be referred to the refugee committee, which can conduct a fact-finding survey either directly or through a refugee examiner, and decide within six months from the date of receiving the refugee recognition after deliberation. If an objection has been filed against a refugee's non-recognition decision, administrative litigation shall be filed within 90 days from the date of receiving the notice of non-recognition of refugee status. The refugee applicant may immediately file a petition with the administrative court to confirm the decision, including

cancellation or nullification of the refugee non-recognition decision, without filing an objection with the refugee committee, but most of the objections is currently being filed through the refugee committee.

However, there have been a growing number of cases where refugees are using objection procedures to extend their stay. The Seoul Administrative Court has set up and operated nine refugee affairs, courts as of February 2017, but it has not only negatively affected the protection of refugees' human rights, but also wasted social costs as it has taken a considerable period of time to complete a sufficient hearing and make a decision through trial.

*** Prospection after the Establishment of the Refugee Tribunal**

The Ministry of Justice is seeking ways to establish and operate the refugee tribunal in a way that would reduce objections to misusing the refugee screening process in the absence of clear reasons, while giving the refugee applicant the opportunity to appeal their non-recognition result and be recognized as a refugee status by the judicial process. If a refugee tribunal is introduced in the future, it is expected that the system of filing objections through the refugee committee, which has the characteristics of the existing administrative procedures, will take on the characteristics of the judicial process, which will strengthen the effectiveness of the review results of the objection. Also, as a judicial process, it is likely to minimize the number of cases in which unrecognized refugees contend for refugee status without clear reasons.

In order for the positive prospection, the Ministry of Justice conducts talks with the court to establish a refugee tribunal system with the precondition that the expertise and the justification of the first refugee screening system is guaranteed and that decisions on objection should be recognized not only as judicial characteristics but also as the

administrative authority.

ii) Establishment of International Affairs Research Team

The current difficulties for refugee examiners in each immigration office were that it took a considerable amount of time to collect or analyze international affairs. It is difficult to grasp the exact state of the country when an examiner interviewed a refugee applicant directly checks the situation of the country and determines whether it is a genuine refugee or a fake refugee, and it also takes a considerable amount of time to cooperate with related agencies to gather information. As a result, refugee screening should be conducted within six months of receiving refugees due to difficulties in collecting international affairs, but refugee screening is inevitably being extended. In fact, the Ministry of Justice's Immigration Office is obliged to notify the government of the extension of the refugee screening period as shown below, defining the factors of long-term disturbances caused by the collection of state affairs.

***The Guideline for Refugee Screening Process of Immigration Office**

: In relation to the notice of extension of the evaluation period, the inevitable cases, of which a review cannot be carried out within six months are as follows. Therefore, the Ministry of Justice also announced its plan to increase the accuracy and fairness of the screening by creating an "International Affairs Research Team" to strengthen the expertise of refugee screening. The government plans to have the expertise to closely judge each country's history, culture and religious situations, and push for refugee screening with speed and accuracy.

iii) Measures to Eradicate Illegal Employment

The Ministry of Justice allows refugee applicants to seek employment after six

months, the first period of refugee review. The six-month period was limited to prevent the influx of refugees disguised as refugees for illegal employment, and to protect foreign workers working in Korea with a legitimate work visa. In addition, the act of arranging jobs for refugee applicants was also illegal to prevent them from engaging in obvious employment practices. However, the Justice Ministry's "allowing a job after six months" for refugee applicants is also a rule amid a surge in the number of cases in which refugee applicants are deliberately misused as working visas using the objection filing system. In fact, the number of refugee applicants from India, China and other countries in Africa, where most of them are the gate to illegal employment, is increasing year by year. According to officials at the human resources office, South Korea has long been reduced to a means of making money through a false refugee application system.⁶³

The Ministry of Justice plans to include the revision of the Refugee Act after reviewing various measures, including revising the employment restriction period or strengthening the level of punishment for illegal workers, in order to prevent refugee applicants who are seeking illegal employment.

2) Emergency Measures Against Yemeni Refugees

i) Accelerated Refugee Screening

According to the statistics of the Ministry of Justice regarding the Korean refugees, it takes at least six months for a refugee applicant to take a refugee review and receive a result of the review. The number of refugee examiners at the Immigration Office in Jeju (hereinafter “Jeju office”) was only one, which was even worse. With 541 Yemenis joining,

⁶³ Sunday Seoul (2018.5.4.): ‘Employment refugees’ (<http://www.ilyoseoul.co.kr/news/articleView.html?idxno=232840>)

the results of their refugee interview would have to take more than one year. It was natural that the refugee issue, coupled with public anxiety, would not easily settle-down if those who applied for refugee status for at least six months and whose identities have not been confirmed stayed on Jeju Island. To prevent the ongoing controversy, the government ordered the Jeju office to conduct a quick refugee review. The first thing that is needed is to increase the number of refugee examiners and dispatch Arabic staff for smooth Arabic translation and make the Justice Ministry's Arabic language workforce available to the fullest.

As a result, one refugee examiner and two Arabic interpreter staff were dispatched to the Jeju office on June 25 and four more Arab language translators were dispatched as of July 2 to form a special team for refugees. A total of four Arabic translators were allowed to conduct refugee reviews every day, with a schedule for refugee reviews and an Arabic-speaking refugee screening process. Due to the government's swift countermeasure, refugee screening was completed within three months after their applying for the refugee status, and the results of refugee screening were completed in December 2018.

ii) Stabilizing Yemenis' Sojourn in Jeju Island

When about 500 Yemeni refugees were brought in at one time, the Ministry of Justice and the Jeju office were in trouble. It is expected that it will take at least six months for the refugee examination and the announcement of the results even if the refugee examination is carried out promptly. It was urgent for the Yemeni people to stay in Jeju Island without any social problems during the refugee examination process.

The Ministry of Justice and the Jeju Provincial Office have set up three measures to manage hundreds of Yemen refugee applicants. ① working permits only for the Yemeni refugees ② management of the settlement area through SNS and settlement of housing ③

implementation of social integration education and immigration control law education.

① Working Permits only for the Yemeni Refugees

In Korea, refugee applicants are only allowed to get a job six months after applying for refugee status. The reason for limiting the six-month period was to prevent reckless refugee applications and protect the local labor market. The Ministry of Justice removed the six-month term and granted early employment on a humanitarian basis as an exception. They believed that if Yemenis got a job, they would not only be able to stay in the city, but also stay in Jeju Island in a stable manner due to income from employment. However, the government has decided to grant employment only to primary industries such as fishing, fishing and restaurant industries that lack workers on Jeju Island to protect foreign workers who have received employment visas and domestic employment. The early employment permit for Yemenis was a landmark measure that could dispel their stable stay, the creation of labor demand in areas with a shortage of workers in Jeju Island and even anxiety among Jeju residents.

The Jeju government held two job briefing sessions in June 2018 to help Yemenis find jobs. Although there is public criticism because it was unusual for immigration authorities to find employment for refugee applicants, the results were that most Yemenis were able to find work through two times job offers.⁶⁴ Meanwhile, refugee charities and human rights organizations also voiced criticism of the Jeju Immigration Office. The reason was that earlier employment permits were limited to primary industries. It pointed out that primary industrial labor is a hard job for Yemeni refugee applicants and needs a fundamental solution to their stay, not just a work permit. Below are some comments on the early employment of Yemeni refugee applicants from some refugee groups.

⁶⁴ The first job fair('18.6.14) 270 and the second job('18.6.18) 131 Yemeni refugee applicants were employed. As of July, 239 people (92 sailors, 115 aquaculture industry, 20 restaurants, etc)

'The Human Rights of Jeju Refugees'

"The Justice Ministry's measures to support refugees are job search and work permits. It's a proactive and effective step, but we need to come up with additional countermeasures because jobs are not often maintained in the long term due to lack of understanding between employers and Yemeni people, such as communication, work and labor conditions."

'Director of Jeju Institute for Peace and Human Rights'

"We need programs to help mutual understanding such as education on refugees and cultural understanding, education for employers, support for reemployment, and expansion of industries for the vulnerable should be taken into account, and we should lift restrictions to allow them to move to areas in the metropolitan area where foreign communities and manufacturers are able to absorb and accept them."

However, the Ministry of Justice's early work permit for Yemenis took into account the equity of foreign workers employed in the country by obtaining the existing E9 (non-professional employment) visa, and the weakened domestic labor market. Such measures helped resolve labor shortages in the primary industry on Jeju Island and helped Yemeni refugee applicants who were transferred to accommodations and migrant support centers without a fixed residence in the city to provide them with job support and economic activities through wages. As a result, Yemeni people's long stay on Jeju Island ended as most of the Yemeni refugee applicants were employed due to the Justice Ministry's work permit measure. At a press meeting, the Jeju chief tried to stabilize their stay by saying, "We are giving

limited job permits to Yemen only, and we are guiding them to get back to work if they want to even if they quit halfway.”

② Management of Yemenis' Staying in Jeju Island through SNS

As of July 1, 239 Yemeni refugee applicants (92 fishing boats, 115 fish farms, 20 restaurants, etc.) were able to find jobs and have the capacity to stand on their own feet. The Ministry of Justice thought that Yemenis would work faithfully for their own livelihood with their families in their homeland, as it allowed them to work specifically for Yemenis. It expected a "win-win" situation between employers and Yemenis in Jeju Island. However, the Justice Ministry's prediction was wrong. Unlike refugee applicants and foreign workers from Southeast Asian countries, the cultural characteristics of Yemenis were far too different than expected.

Yemen is a country located in the southwestern part of the Arabian Peninsula with a coastline of about 1,900 kilometers across the Red Sea and the Gulf of Aden, and Justice Ministry officials expected Yemenis to be familiar with the sea. However, Yemen's capital, Sanaa, is about two and a half times larger than the size of the Korean Peninsula and is somewhat skewed on the west coast, about 200 kilometers from the coast. Fishing was very strange to them, as most Yemeni refugee applicants were from Sanaa.

Yemenis who had never been on a boat were often plagued by vomiting throughout the day, rather than helping their hands out. The fishing boats, which had been scheduled to go out to sea for a long time, had to return to land until the scheduled fishing was canceled after the Yemenis complained of pain. In the process, the conflict between ship owners and Yemenis has only deepened. Yemeni people in the fishing industry were forced to quit their jobs in just a few days due to conflicts with ship owners and physical pain. A refugee applicant, who visited the Jeju Immigration and Foreign Office to get out of the fishing boat

and to find other work, said he felt like hell in the middle of the summer, and would do anything other than fishing.

The restaurant businesses were rather better off than fishing. Unlike fishing boats and working on the sea for a long time, the restaurant industry was free to meet with Yemeni friends outside of work hours, and was better than fishing in all aspects, including accommodation and meal provision, according to a Yemeni who came out of the fishing boat and worked in the restaurant industry. However, their problems were not eliminated in the fishing and restaurant industries. Due to poor communication with employers and customers, only basic tasks such as cleaning were possible. In addition, the fact that most Muslims stop working to pray even during office hours (Salah)⁶⁵ has made business owners uncomfortable. Since July, the office has been bustling with Yemenis who have filed a series of retirement reports for Yemeni refugee applicants due to employer-labor conflicts and have either given up their jobs or moved to the accommodations provided by NGOs to get permission to find new jobs. Due to the continuous employment and changes in the location of the Yemeni people, the Jeju office has been paralyzed from other existing tasks. Effective solutions were needed for the work related to the stay of Yemeni refugees, and the Jeju government opened and operated a closed Facebook page for Yemenis after much consideration.

Previously, foreigners staying in Korea had to visit the immigration office at the base after obtaining relevant documents for the registration of change of residence and employment permit. However, Yemenis were able to establish a 24-hour liaison system by simplifying their work by reporting changes to their residence through Facebook and temporary employment reports. In addition, important notices such as the Immigration Act were posted here, which was considered to have greatly helped prevent accidents among

⁶⁵ Salah: it is one of the Five Pillars in the faith of Islam and an obligatory religious duty for every Muslim. It is a physical, mental, and spiritual act of worship that is observed five times every day at prescribed times. When they do this, they must face Mecca. (the source from Wikipedia)

Yemeni people. The immigration law and other information were posted here to prevent accidental accidents among Yemeni people.

Meanwhile, support from various religious and NGO groups has also gradually increased due to the prolonged stay of Yemenis on Jeju Island. In addition to providing accommodations to help them, they also provided food materials and provided education for social integration such as Korean language education.⁶⁶ As the number of support groups increased, the living radius of Yemenis began to expand. The number of residences, which stood at 17 in July, increased to 36 in August on the back of the sponsorship of NGOs and toxicology, and the location was expanded to the whole of Jeju. As Yemeni accommodations were formed even in areas where housing complexes are concentrated, residents were also strongly opposed to it. Neither look nor culture hid the uneasy feelings of parents and residents in the neighborhood at the appearance of other young people. Various complaints have been filed, ranging from accusations that the government is advocating refugees and promoting illegal employment to calls for them to come and guard in front of Yemeni accommodations. The Jeju government has embarked on a wave of trends, focusing on Yemeni residences and employment sites, to address complaints of residents' anxiety. In particular, Yemeni group residences were regularly visited to find out the situation. More than five people visited the newly occupied quarters. In addition, the Jeju government has spared no assistance in mobilizing vehicles to help Yemenis smoothly settle in their new quarters.

③ Implementation of Social Integration Program

When Yemeni people entered Jeju Island and applied for refugee status, many people

⁶⁶ Jeju Migrant Center: Providing accommodation to around 60 Yemenis with providing medical assistance, providing food materials, Korean language education, etc.
Catholic organization (Naomi Center): Ten residential areas in Jeju Island are rented out to 60 family members, and education for underage people to adapt to Korean society is provided.

opposed the idea because they were Muslims. The public's anxiety was heightened by the public opinion that Muslims are so culturally different that they are likely to commit crimes inappropriately in favor of Korean society and that their connection to terrorist groups cannot be ignored. The Jeju government needed another effort to lower the negative perception of Yemenis at all and ease public anxiety. Although it is difficult to directly persuade the majority of anti-immigrant public opinion, the government conducted social integration, education with the view that Yemeni people will change their perception of refugees if they adapt well to Korean society without problems.

In cooperation with relevant agencies, including the Jeju National Police Agency's International Criminal Investigation Unit, the Jeju office conducted two sessions of Korean cultural education⁶⁷ for Yemeni refugee applicants in July and August 2018. Through education, Korea's basic etiquette was introduced in order that Yemenis can live in Korean society without conflict, and tried to coexist with residents by reminding them that even if they cause minor crimes, it could be a problem. They also taught Korean working culture for the sake of their continued employment, as they need to be employed and worked in a stable manner as soon as possible to reduce the conflict between the anti-refugee and welcoming-refugees public opinion on Jeju Island.

3) Measures to Address the Public's Concerns

i) Restrictions on the travel of refugee applicants to Korean Land from Jeju and Bans additional Yemenis from entering Jeju

As the "Special Act on the Establishment of Jeju Special Self-Governing Province and the Enforcement Decree of the Act on the Creation of International Free Cities" took

⁶⁷ Three times in July 2018 at the Jeju Immigration Office (a total of 188 participants in the lectures)

effect on April 1, 2002, visa-free entry to Jeju was allowed to attract tourists from May 1, 2002. According to statistics from the Jeju Tourism Organization, Jeju has a ratio of 72.7 percent in the third industry (a national average of 60.2 percent in the third industry) and 2.6 percent in annual service sector sales since 2008, which is significantly higher than the average 1.0 percent in the country. With the implementation of the visa-free system, which is 16 years old this year, it has contributed to the development of Jeju Island, including the increase of tourists.

However, some Jeju residents are criticizing the government for its negligence in overall foreign management as the number of applications for refugees also surged at a time when the visa-free system increased crimes involving illegal aliens and foreigners. The influx of Yemenis at a time of conflict between the government and residents of the visa-free system has added to the hatred and anxiety of refugees not only from Jeju Island but also from all Koreans.

The Ministry of Justice imposed restrictions on those who entered Jeju Island without visas on April 30 to prevent the refugee issue from escalating into a national issue. As many of those who previously entered the country without any restrictions by using the Jeju visa-free system have moved to land after applying for refugee status on Jeju Island, applying for refugee status on Jeju Island served as a gateway to the Korean entry for foreigners wishing to enter the country. However, it was meaningful that the number of people who applied for refugee status on Jeju Island decreased as the Ministry of Justice's entry restriction did not allow them to enter the country. There was no hesitation in the Justice Ministry's move to address public anxiety. Despite the implementation of the restrictions, Yemen was excluded from the list of countries without visas on Jeju Island as of June 1 as more Yemenis entered the island between March and May 2018. As a result, 561 Yemenis entered Jeju Island, of which 549 applied for refugee status.

ii) Cooperation between the Immigration Office and the Security Agencies

With the surge in sponsorship of NGOs and individual qualifications, Yemeni residences have been dispersed throughout Jeju Island, not limited to downtown areas. Among them, Yemeni refugee applicants are staying in a densely populated residential complex, which has caused strong opposition from neighboring residents. As the Jeju government and the security agency were unable to tolerate complaints regarding their stay in the island, the Jeju office tried to manage the Yemeni residence and began regular activities.

- A Korean Muslim group has rented a private house in Jeju City, to accommodate eight Yemenis. However, nearby residents were strongly asked to move them to other places, so that the Jeju Immigration Office and the police could strengthen security in the area and provide a contact number of security agencies.
- Although the former Jeju Migrant Center provided lodging facilities in a commercial area rather than in a residential area, articles in the bus driver's quarters downstairs protested strongly and took steps to strengthen police and our security activities, deploy management forces, and cooperate in wiretapping.

Despite the Jeju Provincial Government's policing, public opinion on anti-refugee and complaints against Yemeni people has poured out. The Jeju Citizens' Coalition for Refugees held two rallies in Jeju to urge the abolition of the Refugee Act and the visa-free certificate (7.14, 7.28 in 2018) and strongly criticized the government's lukewarm measures

against refugees. Under these circumstances, the most efficient way to reduce civil unrest and to maintain a stable stay of Yemenis was to maintain thorough policing.

To ensure efficient policing, the Jeju government worked closely with related officials, including the National Police Agency, maritime police, wiretapping and intelligence agencies. In order to discuss effective policing measures, the Minister of Justice and the head of the Immigration and Foreign Policy Division visited the relevant agencies of Jeju on July 10 and September 27, respectively. Below are records of major policing cooperation activities of the Jeju Immigration office.

○ Meeting with Jeju Province Government on June 8

(The director of Jeju office) Explain the status of refugees and the prospect of early Yemeni employment permits, and ask for employment to be sought within the scope of not encroaching upon the job opportunities of the provincial government.

(The governor of Jeju-do) The Jeju government agrees with the Jeju government on the refugee issue, and promises to actively cooperate in consideration of the seriousness of the issue, although job search is not the business of its nature.

○ Joint press briefing on June 19

- In the press conference room, press briefing is held with the director, deputy minister for political affairs, and the police director of foreign affairs. While providing humanitarian assistance to Yemeni refugee applicants, three organizations have announced that they will make efforts to strengthen patrols and resolve difficulties to minimize civil unrest.

- During the Q&A session, the Director-General explains the status of support for living expenses, the background of restrictions on travel, the deputy governor for political affairs, and the special security measures.

○ Vice Justice Minister Visited Jeju on July 10

- After receiving a report on the status of refugee reviews from the Jeju Province Government, Vice Minister ordered the examiners to proceed strictly and swiftly, then moved to the provincial governor to discuss pending issues related to refugees, and visited the Jeju Police Agency and the migrant center one by one to express his gratitude and listen to complaints and suggestions.

3. Results of Yemeni Refugee applicants

1) Announcement of the Yemeni Refugee Applicants' Results

The Yemeni refugee issue has been a hot issue on Jeju Island since June 25, 2018, when the refugee screening began for the Yemeni people who entered the country in earnest from April to May 2018. In a swift refugee review move by the Ministry of Justice, the Jeju office on Sept. 13 announced the results of the first refugee review to the media. It said it has completed interviews with 440 of the 484 Yemeni refugee applicants and will make a decision on granting humanitarian stay to 23 of them. Director of Jeju office announced that he will make a decision on 23 humanitarian stay for 23 people who are believed to have a high need for protection on humanitarian grounds, including infants' families, pregnant women, minors and the injured. Of the 23, 10 were minors, while seven were minors who entered the country without care, including parents or spouses and parents. He also added that refugee applicants who have finished screening will soon be announced whether to grant permission to stay in the country.

The Yemeni refugees, whose humanitarian stay permit has been decided, are refugee

applicants who entered the country to avoid civil war or forced conscription by the Huthi rebels in Yemen, so they do not give refugee status because they do not conform to the five reasons for persecution (racial, religious, nationality, status of members of certain social groups, and political views) under the Refugee Convention and Refugee Act," it said. However, considering the dire civil war situation in Yemen and the possibility of their unstable stay, arrest and detention in a third country via the United States, the government decided to grant humanitarian stay to 23 people in accordance with Article 2 of the Refugee Act, as it is believed that deporting them outside of Korea would significantly violate their freedom of life or body." They went through verification procedures, including fact-checking of interviews, identification checks of related agencies on terrorism charges, drug tests and criminal records at home and abroad, and those who had no particular points in the process. The 23 people who are eligible for humanitarian stay will be given a new one-year stay period, along with the lifting of travel restrictions, and if the situation improves enough to return to their home countries, the stay permit will not be revoked or extended.

Meanwhile, 23 Yemenis who received humanitarian status after a long wait were generally satisfied with the results of the refugee review, relieved that they were able to make headway and that the duration of their stay, albeit for a year, is guaranteed in a stable manner. However, some Yemenis who had been receiving support for their livelihood as applicants for refugee status were disappointed that they could not receive the support. The announcement of the results of the first refugee review by the Jeju government was a major turning point for Yemenis who were waiting for the results of the refugee review. Some Yemeni refugee applicants began to rave, saying, "The results of the refugee screening have finally begun to be announced," and the announcement of the results of the first round of refugee screening, such as Yemeni refugee applicants who were concerned about the delay in their results, and those who had been granted humanitarian residency status and prepared for

the trip, was of great significance to them.

On Oct. 17, about a month after the first announcement, the Jeju government announced its decision to the press that 458 of the 481 Yemeni refugee applicants (excluding the three who left the country after the withdrawal of the refugee application) were granted humanitarian stay of 339, 34 simply unrecognized and 85 decided to postpone the screening. The Jeju office added that applicants have not recognized them as "dispersed" because they do not fall under the Refugee Convention and refugee recognition requirements under the Refugee Act, but decided to grant permission for humanitarian stay under Article 2 of the Refugee Act, considering the current civil war situation in Yemen and the possibility of detention. In the review, 34 people who were given "simple unrecognized" treatment were either born in a third country and continued to reside there, or were found to have foreign spouses so they could go to a third country, or applied for refugee for economic purposes, and those suspected of crimes.

85 people on hold were those who were delayed due to their employment as sailors, or those who temporarily left the country for another country to fail to respond to the refugee screening, and those who were deemed to need further investigation. Also, among the unrecognized, the Jeju Immigration and Foreign Affairs Office tested all Yemeni refugees except preschoolers and found that four people tested positive and were simply not recognized.

Meanwhile, the Jeju provincial government said most of the reports and rumors by some local media⁶⁸ that some Yemeni refugee applicants were not allowed to post messages, photos with guns or photos of the militants in their SNS accounts were not true. In the case of suspected criminals, there were no serious issues to be deported immediately, and the shooting did not affect the results of refugee screening in consideration of Yemen's local

⁶⁸ The JoongAng Sunday report (2018.8.25): 'There is also a picture of a gun in Jeju's Yemeni refugee Facebook' (<https://news.joins.com/article/22913429>)

cultural background. After the announcement of the second refugee review, some civic groups pointed out that there were no refugees in the second announcement, but a Justice Ministry official countered, "It is the first time that we have granted such a large permit for humanitarian stay."

On Dec. 14, the head of the Jeju office, said, "Of the 85 Yemeni refugee applicants who did not receive the results of the refugee screening, two out of 74 people, excluding 11 who ended the screening process, will be recognized as refugees, 50 will be granted humanitarian stay permits and 22 will be granted." The immigration authorities determined that the two Yemenis, who were recognized as refugees, were kidnapped and killed by reporting articles critical of the Huthi rebels as journalists, and that the possibility of persecution will continue in the future. With the decision, among the 484 Yemeni refugee applicants, two are recognized as refugees, 412 are granted humanitarian stay permits, 56 are not recognized simply, and 14 are Yemenis who have been terminated by leaving the country. In the end, chairman of the Human Rights Commission issued a statement expressing deep concern about the ministry's final decision. "We express our deep concern about the safety of 56 simple, unrecognized people and the situation facing humanitarian refugees," the commission said in a statement. "We urge the government to reorganize the problems in the refugee protection policy revealed through the review to meet international human rights standards." Regarding the results of the ministry's review as well, the commission said, "There are specific comments that only two people have been admitted, and that the decision to allow a number of humanitarian stay is a one-size-fits-all decision to hurriedly end negative public opinions about refugees rather than individual refugee reviews." Regarding the immigration authorities' decision not to recognize those who entered Korea and applied for refugee status in order to avoid civil war or forced conscription by rebels, the UNHCR said, "Because avoiding civil war or forced conscription is one of the most common reasons

for refugee protection, it cannot be an unrecognized cause." The commission also pointed out that a total of 412 Yemeni humanitarian donors are also required to make a counter-offensive. The commission judged that the stay in Korea should be extended on a yearly basis, unlike refugees, and that measures should be taken to ensure the stable stay of humanitarian investors, whose treatment regulations are only a work permit. The commission said, "As the Justice Ministry acknowledged, they need to improve laws and systems for solving related problems, saying that deportation due to the serious civil war situation and the possibility of unstable stay, arrest or detention in a second country, which was passed through, could lead to a significant violation of the freedom of life or body.

<Table 11 Results of the Yemeni Refugee Applicants in Jeju>

(2018.12.14)

Total Yemeni Refugee Applicants in Jeju	484
Recognized Refugees (F-2-2 Resident Visa & Renewal the Visa every 3 Years)	2
Humanitarian Status Holders (G-1-6 Visa, Renewal the Visa Each Year)	412
Unrecognized Refugees	56
withdrawal of refugee application, self-examination, termination, etc	14

Sources: Jeju Immigration office

V. LIMITATIONS OF THE KOREAN REFUGEE POLICY IN THE YEMENI CASE

The 2018 Jeju Yemeni refugee case was meaningful in that the refugee issue, which had been delayed, became a public debate. While refugee acceptance was natural in accordance with the trend of the times, the South Korean government has been formally accepting refugees without a real sense of refugee acceptance and their process of social integration amid the anti-refugee public and political debate. However, it was significant from a macro perspective that the Yemeni refugee incident provided an "opportunity in crisis" as the turning point created the need to unite political and social efforts on refugee acceptance. In fact, conditions were provided for the integration of opinions from refugee advocacy groups and opposition groups, academia, the National Assembly and the government, which separately advocated improvement of the refugee system.

On the other hand, the incident was also the main culprit of the problems with the refugee system in Korea. It was a sad reality that the South Korean government's refugee system has been thrown into disarray by only 500 applicants. In addition, it was unprecedented that there was a systematic clash between the refugee system and the special local administrative law in Jeju Island, where the special law, Visa-Free Entry policy, is in effect. This chapter reviews Yemeni refugee case of that there were any problems with the Korean refugee system and what the main issues in the case were.

1. Conflict between the Refugee System and the Visa-Free Entry Policy

Among foreigners who entered Jeju without visas from 2013 to 2017, the number of refugee applicants averaged 232 each year, but jumped to 937 in the first half of 2018. The

figure is a sharp increase even if the 549 Yemenis are excluded. As the Yemeni refugee case has become a big issue in Korea, the number of foreigners who enter the country without visas has also increased. The visa-free entry system on Jeju Island to attract tourists has turned into a channel for refugee applications, contrary to its original purpose.

As the Justice Ministry values border safety and efficient management in principle, it is inevitable to maintain a conservative stance on the visa-free system. In comparison, Jeju's provincial government is unlikely to scrap the system, which has been in place since 2002, as it sees visa-free entry permit as a requirement to "boost the tourism industry" and to become a famous international city. The Jeju provincial government recently said it will maintain the visa-free system, citing that the visa-free system is not a direct reason for the influx of refugees, as only 5.7 percent of the city has applied for refugees across the country over the past four years. The Jeju provincial government's stance was not enough to abolish the visa-free system, which is centered on the Yemeni refugee debate and the Ministry of Justice expanded the number of countries that do not allow visa-free services, including Yemen, to 24.⁶⁹ Through the measures, it first limited the entry of foreigners seen as refugee-producing countries, blocking the possibility of abusing their visa-free system. However, the Ministry of Justice's plan to expand visa-free entry into the country will not be a fundamental solution. Above all, negative ways of nominating and disallowing a particular country could have a negative impact on diplomatic relations between the In principle, it cannot completely rule out the possibility of refugee applicants occurring after 24 designated countries have not been designated as non-exclusive unless the highest hard-line provision is prepared to prevent visa-free entrants from applying for refugee status. In fact, there was a quick criticism that the visa-free visa system was "malicious" as the number of Yemeni refugee applicants increased sharply in the first half of this year, but in fact, over the past five years, more than 90 percent

⁶⁹ The Ministry of Justice has expanded to 24 countries that are not allowed to certify Jeju Island (2018.8.1)

of all Chinese visa-free entrants are Chinese nationals, and in this statistic, refugees among Chinese nationals are assumed to be religious groups, not ordinary tourists.

After all, it is understood that Jeju Island, which expects to earn tourism income since the majority of visa-free visitors are ordinary Chinese tourists, wants to keep the visa-free system alive, but since the possibility of the visa-free system being used as a route for refugee applications is not fully resolved, Jeju Island should come up with new measures to balance visa-free interests and potential risk factors more actively. The Jeju provincial government said it would prepare an institutional mechanism to prevent the use of the visa-free system, which is aimed at tourism, from being abused, but it needs to seek more. In this regard, the government needs to pay a contribution of 1,000 won(1 USD) from Koreans who purchase international air tickets to create an "International Disease Control Fund" and support the health improvement of developing countries with private funds, not the government's development aid budget. Applying this concept and principle in part, the government could consider using the funds for direct assistance (physical and human resources) to minimize part of the profits secured by non-exclusive tourism, rather than the limited budget of the local government, in the event of a refugee applicant without a visa on Jeju Island, even for a certain period of time, in terms of social safety protection net, which is concerned by the local community.

2. Low social Awareness of Refugees

The reason the Yemeni refugee crisis has caused a great social stir was not just because it occurred through institutional loopholes in certain areas, namely Jeju Island. Even considering the special nature of Jeju Island, the Ministry of Justice could have addressed the pending issue of hundreds of refugee applicants, even with the existing refugee system.

Although there was only one official at the Jeju Provincial Government's refugee screening department, the case would have ended without major social repercussions with measures to dispatch government officials exclusively in other regions and the urgent dispatch of Arabic translators, as was the case. However, the biggest reason for the scandal was 'Most of the refugee applicants are Muslims, and most of the young men who have traveled abroad for a long time.' The "blind" fear has spread to the people, with them becoming a new potential criminal in Jeju society. The excessive spread of "Islam Phobia"⁷⁰ was enough to cover all attempts to understand who refugees are and how Korean refugee system works.

The recent issue of Yemeni refugees in Jeju is an example of the maturity of our society when the task that we have only thought about ostensible has become a real problem. Of course, this responsibility cannot be blamed entirely on the people's perception of society. Rather, the problem was that the government lacked efforts to bring up public acceptance and sympathy while completing the refugee system with a mature system that is faithful in both form and content. Already thousands of Muslims work as low-skilled workers (E-9 visa) and crew (E-10 visa) in our society under the government's policy of introducing foreign powers called the Employment Permit System, but they have rarely formed a wall of strong ostracism like the current "Islam Forbes." Also, they were not just Muslims. In the case of Muslim migrant workers staying in Korea, many from Southeast Asia, the identity of Muslims is not shown much both inside and outside the workplace, while Muslim refugees from the Middle East were due to the frame of "massive Middle East refugees entering Europe" or "terrorism that occurred in European society."

After all, the "Refugees and Muslim" union is now being recognized in Korean society as a group of foreigners who want to reject it the most. This is related to the negative nature of the Arab Muslim group, which has little cultural contact with us, by delivering only

⁷⁰ Jack Jin Gary Lee and John D. Skrentny, *Korean Multi-Culturalism in comparative perspective*, 2015. 302-303.

the Middle East region centered on Syria as an image of terrorism and war, and repeating only the negative aspects of the outbreak of refugees in the region to neighboring countries and Europe.

Despite the low level of public awareness of refugees, the current refugee system in fact consists only of provisions for the operation of the system, lacks provisions that include the government's efforts to promote public understanding and understand the level of acceptability of the system. As part of efforts to enhance public consensus and understanding of the refugee system in the future, it will be necessary to regularly conduct a survey on the people's acceptance of refugees and use them as a basis for improving the mid- and long-term refugee system and establishing policy directions.

3. Shortage of Public Servants in charge of Refugee Affairs

Since the implementation of the Refugee Act in 2013, the cumulative number of refugee applicants has exceeded 48,000 in Korea. Of them, only 936 have been recognized as refugees so far in 2018. There are a variety of reasons for such low refugee recognition rate. The biggest problem among them is that refugee services are not being efficiently carried out as the number of refugee review against the rapidly increasing number of refugee applicants is not smoothly filled.

As of January 2018, the number of refugee only public servants nationwide stood at only 39.⁷¹ Applications for refugee applications are available at all immigration and immigration agencies across the country, but due to a lack of refugee screening and full-time civil servants, refugee screening is conducted at only 10 hub agencies. Also problematic is the fact that refugee services are not made up of official duties, but are inefficient. According

⁷¹ The Ministry of Justice has increased the number of refugee-related civil servants since the Yemen incident in Jeju Island. (55 people nationwide as of January 19)

to data from the Ministry of Justice, the number of refugee applicants and objectors increased by 560 percent and 1,174 percent, respectively, over the past five years (12-16 years). In particular, due to the overload of the work of the refugee affairs public service personnel who are required to engage in administrative affairs related to objection and litigation, proper screening of refugees is difficult.

As for the Jeju office, one examiner was in a situation where he had to deal with the business of screening 549 Yemeni refugee applicants before June 2018. However, the Ministry of Justice tried to expedite the process by relocating four examiners from other regional offices and dispatching four Arabic-speaking immigration officials to resolve the situation on Jeju Island. Such an emergency measure could significantly shorten the screening period expected to take at least six months to a year. Because the size of the existing refugee service staff was so small, the relocation of personnel to a special area, including the dispatch of examiners from other regions, cannot solve the fundamental problem. The mere addition of the staff will not be an expert in solving the problem. This is because the unprofessional increase in manpower could undermine the health of the refugee system itself, including the prolonged screening process. Therefore, the development of specialized refugee-only civil servants who can guarantee the efficiency and professionalism of the primary screening process, which has a decisive impact on the entire screening process, will be a fundamental solution to the problem.

4. Lack of Public facilities for the Refugees

Yemenis who came to Jeju Island were not housed in certain support facilities, but lived in hotels, homes or religious organizations in the city. As a result, Jeju residents were more strongly opposed to the influx of Yemeni refugees into their homes than Incheon

residents saw it as an abomination when the Justice Ministry pushed for the establishment of a refugee support center⁷² in Incheon in 2013. The anxiety in Jeju society toward Yemenis stems from the fact that they are "entering into the living domain of Koreans and staying close." It's a rejection of being culturally disparate and sharing the living space of villages with those who have an image of prejudice.

In fact, most Yemenis on Malaysia-Korea direct flights have arrived with travel expenses that can last for a certain period of time, but their stay on Jeju Island has become a matter of survival as the screening process has become economically inactive. The government is facing a problem of protecting the needy from the inevitable occurrence of the prolonged screening process. To that end, the Red Cross Jeju branch has been providing food and emergency medicine to Yemeni refugee applicants since June 5, 2018, and sent medical staff to provide free medical treatment from June 6.18-23. Jeju Migrant Center, Jeju's oldest group of migrant aid workers, provided shelter for refugees who did not have a In addition, Yemeni people tried to stay homeless near the beach, but they provided accommodation with support from Jeju Government, Jeju Provincial Government, and civic groups.

However, there is a limit to this method of support. A bill to revise the Refugee Act, which relates to the residence of refugees, has been pouring into the National Assembly since the first half of 2018, but there has been a constant clash between the opinion that additional facilities dedicated to providing refugee assistance should be set up and that restricting the residence of refugee applicants would violate their physical freedom.

In reality, if refugee applicants are reduced to tramps during the screening process, not only will they not be able to protect their human rights, but they will also need space for refugee applicants only because security concerns can arise from local residents' concerns.

⁷² It was opened in September 2013 following the implementation of the Refugee Act. With the aim of guaranteeing basic living for refugee applicants, the facility is operated by the immigration and foreign policy headquarters, which can accommodate 100 people at the same time, and provides minimum support for livelihood and social adaptation education.

However, it should consider ways to more realistic implementations of Article 41 (supporting residential facilities) and Article 45 (operating refugee support facilities, etc.) that are directly relevant under the current Act. A plan will be needed to establish facilities based on which refugee applicants can be free to move and develop their ability to stand on their own feet so that refugee support facilities can be found voluntarily.

VI. ANALYSIS OF IMPROVEMENT ON REFUGEE POLICY IN KOREA

1. Implications of the Yemeni Refugees Case in Jeju

The 2018 Yemeni refugee case in Jeju Island was a turning point in Korea's refugee history. The case was marked by the fact that, unlike the ongoing debate over refugees after the implementation of the Refugee Act, the debate has developed in a state of public debate, regardless of the government, the National Assembly and the public opinion. The pros and cons of refugee camps were held at the same time, and refugees were also a hot issue in the field of various kinds of on- and off-line discussions. In other words, problems and ways to improve the refugee system, which has been raised by academics, the National Assembly and policy makers as well as refugee advocacy groups and opposition groups for more than six years since the 2013 Refugee Act took effect, have exploded around the incident.

The phenomenon is attributed to more than 700,000 ordinary people's strong criticism of the Refugee Act and related policies through the first public petition system of the Blue House(the Korean presidential residence), which the incumbent administration first attempted to "communicate with the people" or "direct democracy." As soon as the petition against refugees began in June 2018, the number of people asking for an official response from the Blue House exceeded the standard level of 200,000, and the issue of refugees quickly emerged as a national concern as it topped the list of the Blue House's public petitions. The presidential office could no longer hold back its official stance on the refugee issue, and the government had to value both "national and social security" as well as "global responsibility" to protect the human rights of refugees. In response, the Korean government officially announced its principled stance that it will continue to accept refugees as a

responsible country in the international community, but will conduct a stricter and faster refugee review to minimize public concerns.⁷³ Ironically, criticism of the government's response has been raised both by those who oppose and by those who support refugee acceptance. The opposition's demand to abolish the refugee law itself, the epicenter of public anxiety, showed no sign of abating. This suggests that the "security" discourse on the refugee issue has been rapidly formed in South Korea, where the context of the refugee issue is quite different from that of countries in the Middle East and Europe, which are close to the outbreak of mass refugees. Some refugee advocacy civilian groups also criticized the government for offering an "inaccurate response."

Nevertheless, the government's announcement of its position on the entire nation by responding to the petition provided a solid opportunity for the nation to address the chronic problems that have accumulated in the refugee system. The remaining task will be for the government, the National Assembly and the society to make proper efforts together to ensure that the refugee law, which has been left in a "predicted crisis" due to urgent political issues, has an "institutional stability." In particular, the legislature should correct the blind spots and limitations of the Refugee Act even now so that it can pursue both values of "people and social security" and "protection of human rights for refugees" in a balanced manner. The responsibilities of the government and the legislature are heavier than ever, as public attention is focused on the refugee issue. But efforts to improve the Refugee Act should be careful not to turn into political Populism, and to do so, efforts should be made to preemptively uncover "legislative issues" rather than to show the government and the National Assembly is trailing public opinion.

⁷³ On August 1, 2018, the Minister of Justice made an official response to the petition from the public

2. The Measures to Improve the Current Korean Refugee System

1) Refugee Application Step

i) Considering Raising the Refugee Acceptance Rate

Korea's refugee acceptance rate is quite low at 34th⁷⁴ out of 36 OECD countries. This is due to the aforementioned lack of refugee-prevention officials and the government's stingy tendency to recognize refugees, aside from the public's low social consciousness toward them. Despite the implementation of the Refugee Act in 2013, international criticism continues due to the low refugee rate. The reason why the refugee recognition rate itself is poor is that it is often rejected in the examination of the refugee applicants at immigration ports. Also, even in the refugee application stage after entering the country, the reason for the refugee is often viewed with suspicion. While many of them are seeking refuge for illegal employment or illegal employment, officials in charge are negatively looking at them from the stage of refugee reception due to their inherent low refugee recognition rate.

It is not necessary to make a decision in the port of entry to refer those who are clearly disreputable for refugee reasons to those who are not. It should also be advised to consider raising the refugee recognition rate. Social problems will explode everywhere if the refugee recognition rate is raised en masse at a time when controversy is highlighted over the increased costs to pay for refugees, job problems, and recent economic and security issues

⁷⁴ According to data from the UN refugee agency, the average refugee recognition rate in 190 countries in the world in the last 18 years (2000-2017) is 29.9 percent and the protection rate is 44.2 percent. Narrow down to 145 countries joining the Protocol on Refugees, the recognition rate is 28.1 percent and the protection rate is 42.5 percent. By the standards of the 37 OECD member countries, the recognition rate is 24.8 percent and the protection rate is 38.0 percent. South Korea's recognition rate stands at 3.5 percent, 35th among OECD countries and 35th with a 10.7 percent protection rate. (UNHCR Refugee Statistics & SBS news('18.7.7), 'All about the Korean Refugee')

caused by refugees in Europe. However, it may be necessary to prevent a decline in the refugee recognition rate by treating those who apply for refugee status as legitimate refugee applicants until the screening is completed and the results of the refugee review are announced, rather than looking at them with a negative view.

Therefore, the Ministry of Justice should come up with measures to secure public consensus on the recognition of refugees before raising the refugee recognition rate. If the government focuses on social integration of the refugees later, it will also minimize the negative effects. As a result, raising the refugee recognition rate will not only serve as an opportunity to meet Korea's international status and take a step closer to becoming an advanced country in human rights, but also serve as a basis for the international community, refugee groups and human rights groups to properly cope with criticism of the refugee infallibility

ii) Restriction on Abuse of Refugee Application

Some of the reasons why the number of refugee applicants has increased sharply in recent years are that the number of re-refugee applicants has increased. Under the current refugee system, refugee applicants who have been ruled not to be allowed to apply again should other refugee reasons arise. However, to prevent reckless applications for refugees, it is urgent to limit the refugee application itself or legally limit the period or number of applications if there is a suspicion of abuse of refugee applications.

In the case of Japan's refugee system, the government has implemented advanced policies to limit the abuse of refugee applications, such as the rapid handling of the misuse of refugee applications whose reasons are unclear, and the restriction of employment permits during refugee applications. Canada also conducts a screening of eligibility for refugee

applicants suspected of abusing their rights in consideration of national security so that they will not be referred to refugee applications if they fail to pass. If such cases are reviewed to improve the refugee application process, an efficient refugee review will be conducted only for those who are eligible for refugee reasons, and the results of a fair refugee review can be expected.

2) Refugee Screening Step

i) Introduction of Accelerated Procedure

If a foreigner applies for refugee status in Korea, he can stay in Korea relatively stable until he receives the refugee interview result. As the refugee screening process takes more than six months on average due to a lot of the refugee applicants, they can stay in Korea for up to three years until they file a complaint or file a suit with the court, even if they receive a decision not to be allowed in the first round of the screening by the Ministry of Justice. For those who applied for refugee status for reasons suitable for refugee recognition, the three-year period before receiving the results will be a day of long wait, pain and anxiety. However, for the so-called "fake refugees" who applied for refugee status for the purpose of illegal employment, it is a lucky time to get a stable job and earn wages. This is obviously a loophole in the refugee system.

To prevent this problem, preventing a protracted refugee screening system is an important issue in the current refugee system. Regarding this issue, a proposal⁷⁵ was made at

⁷⁵ Kang Seok-ho(a Member of National Assembly, '18.7.13): The decision on the application for refugee recognition and objection has been reduced from six months to three months from the date of receipt of the application for refugee recognition or objection.
Lee Eon-joo(a Member of National Assembly, '18.7.18): Proposed to shorten the screening period from six months to two months.

the National Assembly in 2018 to shorten the period of decision on refugee recognition and objection. Reducing the existing minimum six-month screening period for three months or two is a very important issue for both the Justice Ministry and refugee applicants. However, these amendments do not have specific ways to reduce the period in practice. It can only be inferred that if the burden on the screening period is reduced by simplifying the referral process for refugee applicants who abuse the system, the premise is that the entire screening process will be resolved.

Shortening the period of refugee screening process and objection alone will not dramatically reduce the time required for the overall refugee review. The current refugee review process consists of the primary refugee review (Immigration Office) for refugee applications, objection to refugee non-recognition after the first screening (the Refugee Committee), and the first, second and third trials (Courts). According to Article 18 paragraph 4 of the Refugee Act, "The decision, such as refugee recognition, shall be made within six months from the date of receipt of the refugee human rights application. However, in unavoidable cases, the period can be extended for a period of six months.' It also states that the application for objection to the outcome of an examination may be filed within 30 days after notification of the result and within 90 days in case of a lawsuit. However, the deadline for filing objections and announcing the results of the lawsuit is not specified. In fact, it seems difficult to reduce the length of time it takes to make a final decision on refugee recognition, as a number of refugee applicants exercise judicial objection as a natural procedural right.

In this regard, it may be possible to consider simplifying the process for the first screening. Specifically, the government needs to consider simplifying the process by recognizing those who will not recognize them in advance due to inadequate refugee reasons, and by simplifying procedures for those who are internationally recognized as refugee-caused

countries, such as Yemen.

In the case of French refugees, France, has been pointed out as a problem like in Korea that it takes a lot of time to wait for them for long periods of time and actually receive refugee applications after the registration process. To improve this, the revision of the Foreign Act in 2015 introduced and implemented an "Accelerated Procedure" system in which those who are not refugees are quickly granted refugee status and those who are not refugees are quickly taken to leave the country. The criteria for determining those who are not refugees are required to follow the departure procedure in the event of a false ID card submission, except for the inevitable forgery of ID cards to escape the country due to persecution specified in the refugee application, or in the event of an issue that is not directly related to an application for non-reporting, or in the case of a contradictory statement or inconsistency, according to the procedures. In addition, those classified as rapid procedures have simplified the procedures of the refugee system by specifying a deadline of ending the examination within 15 days of receipt of the application and 96 hours if detained. The French fast-track system will be a good example for the simplification of procedures in the Korean refugee system.

ii) Promoting Professional Screening Skills of Examiners

Doubts about the professionalism of refugee judges have been continually raised. The refugee examiner belongs to the Immigration Office in the Ministry of Justice and, due to the nature of Korean civil servants, the examiner is limited to working in a circular position for other duties, including refugee service. As a result, the lack of expertise has become an inevitable problem as they are not continuously given the opportunity to train or train refugees. In addition, the Ministry of Justice's immigration and foreign policy headquarters

tend to avoid refugee work due to the perception that it is not a key job, which has caused the shortage of manpower.

To solve this problem, the government should reinforce the educational program for refugee examiners to enhance the capacity for refugee screening. In addition, the government will have to develop refugee experts at the immigration and foreign policy headquarters by stipulating the qualifications of refugee examiners by law and implementing measures to guarantee long-term work. Furthermore, if the government deploys specialized personnel from different regions of the world who can collect information on the state of the country, such as human rights conditions in refugee-producing countries, it will be able to supplement both the expertise and speed of refugee screening.

3) Recognition of Refugee Step

i) Establishment of Related Agency Cooperation System

In the Yemeni refugee case on Jeju Island, the cooperative system with related agencies has shown great strength. Close cooperation with the National Police Agency and intelligence agencies did not cause any social problems that the public feared. The results were attributed to Yemeni refugee applicants' swift handling of the situation by sharing relevant information with relevant agencies in the event of a particular incident. However, the Ministry of Foreign Affairs and Trade's cooperation in analyzing the Yemeni national situation and information on Yemenis was not prepared in advance, which left the Jeju office with some time delay in identifying the facts. In the wake of the Yemeni refugee incident on Jeju Island, it will be necessary to establish efficient and full-scale countermeasures through cooperation with related ministries and local governments related to the refugee issue in preparation for similar

incidents in the future. At the foreign ministry level, it will be possible to consider supporting experts who have a high understanding of regional and international norms.

In this regard, it will be necessary to review the regional refugee quota system such as Germany system. Germany's "Initial Distribution of Asylum Applications (Erstverteilung von Asylbegehrenden, EASY in German)" refers to a system in which Germany assigns and operates non-compliant applicants in 16 states. Each state is responsible for the residence and review of refugee applicants, and each state's allocation quota is adjusted annually by the Federal Commission, which distributes refugees differently according to population and economic power. Germany's EASY system appears to be a positive system in that it can reduce the central government's work weight due to the outbreak of mass refugees through organic cooperation with local governments and proceed with efficient and rapid refugee screening procedures. However, since the introduction of the German quota system is expected to cause backlash from local governments, which will have to accommodate relatively many refugees, if the system is adopted as a similar case in order to determine the proper allocation method, the government and local governments will have to reach a sufficient agreement in advance.

ii) Setup a Permanent Refugee Committee

The permanent organization of the refugee committee is an issue that the Justice Ministry has long discussed. The measure calls for deploying full-time members and establishing a permanent organization to strengthen the screening capacity of the refugee committee. Furthermore, the establishment of a quasi-judicial refugee tribunal system could further consider ways to simplify the process of raising objections so that refugee screening can be conducted quickly and fairly. Under the current system, the Ministry of Justice is

conducting the first round of screening and filing objections, but some point out that the review of objection is limited in its independence and fairness as it is in charge of the refugee committee set up in the Ministry of Justice.

In this regard, it will be possible to benchmark the operation of the Canadian Immigration and Refugees Board (IRB). Canada has implications in terms of strengthening the independence of the screening agency, as it is being conducted by the Immigration and Refugees Committee (IRC) from the first round of screening to raise objections. On the other hand, the civil servants in charge of normal residence management and border management are assessed to be independent of the main body that implements the immigration control and have independence and fairness in that they can exercise their individual decision-making authority without being involved in refugee recognition screening.

In the long run, however, it would be ideal to establish an organization exclusively responsible for filing objections, such as refugee judges. If a refugee judge's deliberation decision is a quasi-judicial one that has the effect of the first trial of the judiciary, the time spent on the final decision on refugee recognition will be considerably reduced. Of course, this refugee tribunal system is effectively a merger of the affairs of the administrative and judicial branches, and cooperation between the ministries will also be of great importance, so careful coordination, such as mutual role, function, financial and resource allocation will have to be preceded.

4) Refinement of Refugee's Residence System

i) Collaboration between Government and NGO

The goals pursued by the Justice Ministry and human rights groups have always been

at the crossroads. The Ministry has no choice but to pay close attention to cases where it is feared to harm the public safety of Korea. However, human rights groups or refugee groups tend to value the human rights of individuals on the basis that the Justice Ministry's concerns about public safety are basically in place. The dispute continued in the Yemeni refugee crisis. There has been constant criticism from human rights groups, although there are differences in the degree to which the results of the three screening tests are announced. In particular, the Jeju office's inquiries into criminal records and drug tests have raised criticism against the Justice Ministry, saying they treat refugee applicants as potential. However, according to the Ministry of Justice, the criminal background check was a procedure to investigate whether there were any crimes in a third country that had stayed in Korea before entering the country and whether the urine test was a drug addict. It was not a violation of the Clause of Disclosure of the personal information in the Refugee Act⁷⁶ because both were carried out with their consent.

ii) Reforming the Working Permit System of Refugee Applicants

In the wake of the massive Yemeni refugee application, the Jeju government has launched a policy of pursuing unconventional substance. In the case of refugee applicants, it was only six months before they were allowed to work, but the government decided to grant work permits to Yemeni refugees without a time limit in order to help them settle down and dispel public concerns. Furthermore, he held two job briefings to ensure a smooth job, giving support to 80 percent of Yemeni refugee applicants. In addition, the agency's job support was

⁷⁶ Article 170, Refugee Act (Disclosure of personal information, etc.)

Paragraph 1: No one shall disclose or divulge personal information or photos of a refugee applicant to others. Exceptions shall be made if the consent of the person is given.

Paragraph 3: Information on the application for refugee recognition shall not be provided to the origin country

a huge success, as it also provided Arabic culture education to employers for follow-up management after the employment permit, and also tried to reduce the possibility of problems to Yemenis. This case is not an exemplary case, but it could be used as a guide in similar cases by building and trimming a foundation. This time, useful books on Korean life information and cultural education will be updated steadily by nationality, and if the management system is established, they will be fully prepared for their employment or social problems.

Meanwhile, there were also many requests for employment permits from other nationals who applied for refugee status less than six months ago. In order to prevent such disputes over equity and to establish refugees early, the government should consider adopting the system by studying advanced cases⁷⁷ instead of ending the employment assistance policy on a one-off. Matters concerning the work permit of refugee applicants under the current refugee system are below

Work Permit for refugee applicants is the most controversial part of the current refugee system. No special problems arose as refugee applicants were granted F-2 (visa) status under the Enforcement Decree of the Immigration Act and were allowed to work without restriction.⁷⁸ However, there have been many problems regarding refugee applicants, ranging from reception to examination period and announcement of results, as they have not been admitted to employment. Thus, on December 19, 2008, the Immigration Act was amended to allow the Minister of Justice to grant employment to those who have applied for refugee recognition among those who applied for refugee status under Article 768, and who have not yet been determined by the Presidential Decree, or those whom the Minister of

⁷⁷ The Work Permit System for refugees in Canada: After applying for refugee status, the Immigration and Refugees Authority (CIC) obtains a work permit and submits it to the Human Resources Technology Development Department (HRSDC) for social security number (Source: Support facilities and social integration studies of each country for asylum seekers).

⁷⁸ The Enforcement Decree of the Act, Article 23 paragraph 2

Justice admitted needed to be granted employment as an outside-stay permit. According to the Act at that time, the one-year deadline was set to prevent Koreans from hiding jobs and abuse of refugee applications for employment, which allowed them to get jobs from one year after receiving refugee applications, but the Act was revised again in 2013 to change the one-year deadline to six months later, referring to cases in advanced countries.

In each country's legislative cases, there are countries that give refugee applicants the right to work immediately, countries that give them the right to work later, after first providing support for their livelihood, and countries that recognize their right to work only when administrative procedures on refugee recognition are in progress, but there are some differences in their employment period.

Given the Yemeni refugee case in Jeju, it would be better to automatically grant refugee applicants after applying for refugee status if a system is in place to manage applicants for employment based on support from the government and private organizations. There will also be an effect that can be given to most suitable applicants for refugee status, which is optionally imposed six months prior to the time when employment is not possible. However, refugee applicants should be limited to making it impossible for them to change their work places at least three times in one year, just like foreign workers, in order to prevent the problem of equity with foreign workers working in Korea and confusion at work sites. In addition to complaints from anti-refugees groups in the Yemeni refugee case on Jeju Island, employers were among those who filed complaints against refugee applicants. The main reason was the deepening conflict with employers as a number of refugee applicants, who felt that their work was difficult due to the lack of restrictions on changing their work sites, have made it difficult for them to run away at night. The Jeju provincial government also had to face difficulties in determining where refugee applicants stayed, as employers were not obliged to report their retirement if they retired. In conclusion, In conclusion, it would be

better to ease somewhat the conditions under which refugee applicants are allowed to work after six months of applying for refugee status. However, the focus should be placed on identifying the status of their stay by limiting the number of work places to be changed more than three times after refugee applicants are granted employment permits, and obliging them to report retirement. If a refugee applicant faithfully works in one or two places during the refugee review period, rather than these frequent employment fluctuations, it is believed that not only the applicants for refugee status, but also employers, governments and private organizations will be able to achieve win-win achievements.

VII. CONCLUSION

According to the UNHCR, the number of refugees from war and persecution reached 25.4 million in 2017 in the world. Furthermore, as civil wars continue in the Middle East and Africa, the number of refugee applicants is rapidly increasing. Countries such as the United States and Germany, called human rights promotion countries, had implemented humanitarian refugee policies prior to 2000. However, when the 9.11 terror in New York directly linked foreign immigration to national security, criticism of the country's humanitarian refugee policy began, and with the emergence of a monstrous group called Daesh in the Syrian civil war, many countries turned to closed refugee policies for fear of their own security. The loss of millions of refugees has made the world situation even more volatile, and the refugee situation has become an urgent.

In 1992, Korea sought to become an "advanced human rights country" by joining the Refugee Convention and the Refugee Protocol. In 1993, the Immigration Act established a new clause to recognize refugees and implemented a full-fledged refugee policy in 1994. However, the Korean Immigration Service stuck to its method of screening foreigners who entered the country individually only if they applied for refugee status, and the applicant had to prove everything for him to be recognized as a refugee status. These refugee policies were inconsistent with the goal of becoming an advanced human rights country. The international community, including Amnesty and UNHCR, has accused the Korean government of being passive in recognizing refugees despite its participation in six international human rights conventions, including the Refugee Convention and Protocol. In response, the Ministry of Justice, which is in charge of refugee affairs, was busy trying to explain that a majority of refugee applicants are illegal immigrants and apply for refugee status to avoid sanctions

imposed on them. As such, the Korean Refugee Policy was in the deadlock.

In Korea, the refugee issue is more complicated because it also has a political nature. While the conservative government was stingy with refugees, the liberal government tended to push ahead with its unprepared refugee policy to increase the refugee acceptance rate. An issue of the North Korean defectors is also related. The Korean government has no choice but to take a more passive stance on the recognition of refugees at a time when it is not prepared for the influx of North Koreans, who are categorized as their own under the Constitution, amid the expected large influx of North Korean defectors if the Korean peninsula is reunified.

In 2000, the refugee issue finally began to move on the floor as non-governmental organizations and religious groups protecting refugees denounced the Korean closed refugee policy to local and foreign media. Progressive media also harshly criticized the Korean government for the meager refugee policy and called for a revision. Faced with mounting media criticism, the Korean government, which felt threatened by public opinion, has made a fundamental move to reform its refugee policy. After efforts to improve refugee policies, the Korean government and the National Assembly gained attention from the international community by enacting Asia's first domestic law on refugees in 2012, breaking away from the previous refugee clause limited to Immigration Act. However, the international community and human rights groups pressed the Korean government to revise the Refugee Act to increase the low refugee acceptance rate as the number of refugee applicants stood at 537, despite the rapid increase in the number of refugee applicants between 2013 and 2018.

Among them, a turning point occurred in early 2018. Yemenis who fled the country due to the civil war entered Jeju Island under the guise of tourists, which was one of Korea's leading tourist destinations and was implementing the visa-free system. Hundreds of Yemeni refugees arrived in Korea using loopholes in the Korean international community, which was in essence different from the case in 2015 when 713 Syrian refugees came to Korea. In order

to prevent social chaos, the Ministry of Justice hurriedly blocked the entry of additional Yemenis into Jeju. In addition, specific measures were prepared to address the refugee issue, including manpower reinforcement in charge of the refugee affairs and employment permits for Yemenis. As a result, the results of the screening of 484 Yemeni refugee applicants on Jeju Island could be announced in a relatively short period of six months. When the results of the refugee application were announced, the temperature difference in public opinion was stark. Human rights groups criticized the government for its poor refugee recognition rate and lack of clear reasons for disapproval. On the other hand, some raised their voices, saying that it is unacceptable for most Yemenis to be eligible for humanitarian status.

This case, which caused a stir in the country with only 561 Yemenis, gives implications for Korean refugee policy. National public opinion was divided due to social problems such as the priority of its citizens and racial discrimination, and as the problems of the meager Korean refugee policy were clearly revealed through the incident, there was also a need to improve the refugee policy urgently. In the wake of the incident, Korea is at a crossroads to decide its direction on refugee policy by gathering opinions from the government, private sector and the international community. If Korea continues its a hard-line refugee policy in terms of "national security," it will not only be human rights advancement but also be criticized by the international community. On the other hand, if it moves forward with an open door refugee policy in terms of "human security," it could face a national security crisis, and it will not be able to address public anxiety. Given the 2018 Yemeni refugee case, it is time to improve the refugee system in four steps based on the flexibility of the refugee system, which can cover national security and human security.

For the international community, there must be various opinions on the issue of acceptance of refugees in each country. However, Korea has painful experience of many citizens were being refugees during Japanese colonial era and Korean Civil War. Therefore,

the refugee acceptance rate should no longer be at the bottom of 36 OECD countries. It is time to put aside the stingy policy of expropriation and increase the refugee acceptance rate in line with its international standing. Taking the opportunity for public discussion on improving the Korean refugee system through the 2018 Yemeni refugee case, the government should secure enough consensuses on refugee acceptance before establishing a balanced refugee policy between "National Security" and "Human Security."

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