

2021 Civil society report on the “Discriminatory Housing Status of Migrant Workers” to the
United Nations Special Rapporteur on the right to Adequate Housing

- Committee on Death by industrial accident of migrant worker¹

1. Facts on the Death by industrial accident of migrant worker named Sokkheng

On December 20, 2020, a Cambodian migrant worker, Sokkheng(born 1990), was found dead at the ‘Vinyl House Dormitory’ on farmland in Pocheon, Gyeonggi Province of R. Korea. There were traces of hemoptysis near the body, and the plastic house, which was a temporary building made of sandwich panels, was moldy and had no bathroom work done.²

¹ Civil society committee gathered to respond to the death by industrial accident of migrant worker named Sokkheng, Civil society union of 64 NGOs.

: Women Migrants Human Rights Center of Korea, Korea Migrant Human Rights Center, GongGam Human Rights Law Foundation, Political Mamas, Immigrants Advocacy Center Gamdong, Advocates for Public Interest Law, Migration and Human Rights Institute, Asia Chang, Friends of Asia, Wongok-Law office, the Migrant Community Center Dong Haeng, Pocheon Nanum House, 경기북부노동인권센터, 경기북부평화시민행동, 두드림(문화다양성교원학습공동체), 미래당아나키스트모임, 빈곤사회연대, (사)이주민과함께, 유엔농민권리포럼, 정만천하 이주여성협회, 정의당 경기도당, 주거권네트워크, 지구인의정류장, 청년정의당경기도당(준), 이주민지원센터, 포천이주노동자센터, 한국노동안전보건연구소

Joint Committee with Migrants in Korea (Bucheon Migrant Welfare Center, Global Love and Sharing, Migrant Health Association in Korea WeFriends, Women Migrants Human Rights Center of Korea, Seoul Migrant Workers Center, Asan Migrant Workers Center, Solidarity for Asian Human Rights and Culture, Namyangju Migrant Welfare Center, The Association for Migrant Workers’ Human Rights, Yongin Migrant Worker Shelter, Uijeongbu EXODUS Migrant Center, Incheon Migrant Worker’s Center, Paju Migrant Worker Center Shalom House, Pocheon Nanum House, the Migrant Community Center Dong Haeng, 한살의집)

Migrants’ Trade Union (MTU), Korean Confederation of Trade Unions (KCTU),

² ABC News, 4 March 2021, Migrant workers face dire conditions at South Korean farms, (<https://abcnews.go.com/Business/wireStory/migrant-workers-face-dire-conditions-south-korean-farms-76243026>)

Sokkheng arrived in Korea in March 2016 under the employment permit system and has worked on rural area. At the time of Sokkheng's death, the minimum morning air temperature fell to 18.6 degrees Celsius. However, according to her fellow workers, the electricity and heating system did not work. Other workers who lived together slept elsewhere since the cold weather worsened few days before, but Sokkheng who remained alone in the 'Vinyl House Dormitory' stayed alone until she was found dead inside the dormitory.

However, on December 24, 2020, the police announced that the cause of death was a ruptured esophageal varix caused by liver cirrhosis rather than a death from cold. The Ministry of Employment and Labor, which has the authority to investigate, also omitted further investigation based on autopsy results and on the overturned statements made by fellow workers on whether the heating was working on the day of Sokkheng's death. The fact that the overturned statement came from a situation in which migrant workers were not separated from the farm owners who had the right to permit their employment is considered problematic.³

The death of Sokkheng triggered the society to recall the poor housing rights of migrant workers through various media reports. As a result, a Committee of civil society was formed by migrant human rights NGOs after the incident.⁴

³ Foreign Policy, 28, JANUARY, 2021, Migrants Are Doing the Jobs South Koreans Sneer At (<https://foreignpolicy.com/2021/01/28/south-korea-migrant-workers/>)

⁴ Ohmynews, 28. December, 2020, (http://www.ohmynews.com/NWS_Web/View/at_pg.aspx?CNTN_CD=A0002706283&CMPT_CD=P0010&utm_source=naver&utm_medium=newsearch&utm_campaign=naver_news)

2. Dormitory Condition of Migrant Workers Who Entered Under Employment Permit System.

1) Current Situation

According to the Ministry of Justice, as of March 2021, the population of foreigners staying in Korea was 1,999,946 and the total number of migrant workers in Korea was 429,778. Among those workers, the number of workers who entered under Employment Permit System reached 226,553 in 2021.⁵ The Employment Permit System has been adopted to fill the gaps in the labour market of declining industry where domestic workers avoid to find a position due to poor working environment and underpayment, and annually, 55,000 foreign workers enter Korea through the Employment Permit System.

In August 2020, the Ministry of Employment and Labor conducted a survey on housing conditions of 7,313 migrant. First of all, 99.1% of those workers stay in the dormitories provided by the employer and 74% of dormitory form was temporary buildings(Containers, Prefabricated Panels, Prefabricated Panels inside the vinyl house). Even 56.5% of them were not registered to the local government as a housing facility. Moreover, some of those dormitories lacked locks, fire extinguishers and fire alarms, thus were mostly vulnerable to privacy and safety problems and fire.

Through the survey, the fact that most Korean farms illegally convert the vinyl house or hut into a dormitory of migrant workers was disclosed. It must be noted that this survey investigated superficially whether mandatory requirements were satisfied or not, without personally checking the actual situation. The pictures of the dormitories show the real condition, which is even poorer than what is described by the survey.⁶

⁵ Ministry of Justice, Statistics on immigration and foreign policy, March 2021

https://viewer.moj.go.kr/skin/doc.html?rs=/result/bbs/227&fn=temp_1618879389586100, p27

⁶ The Hankyoreh, 1, February, 2021, (<http://h21.hani.co.kr/arti/photo/story/49902.html>)

The Hankookilbo, 4. February, 2021,

(<https://www.hankookilbo.com/News/Read/A2021020310160001727?did=NA>)

2) Changes in Policies Related to the Migrant Workers' Dormitory Condition

Previously, the Ministry of Employment and Labor allowed employers to use 'Containers' or 'Prefabricated Panels' as a housing facility provided for migrant workers, thus employers often built vinyl houses or containers in the middle of their farmland as a foreign workers' dormitory. The official regulation limits the location of migrant workers' dormitory to "the places without serious noise or vibrations, risk of natural disaster such as landslide or avalanche, high humidity or flood risk, contamination", states that 'the bedrooms of male/female, different work shifts must be separated' and "the room size must be at least 2.5 square meters per person and there can be no more than 15 people per room." However, these regulations just perfunctorily exist without being investigated thoroughly, and even when it looks like they are following the regulations, basically, they are not able to ensure the "quality" of the dormitory.⁷ In other words, even those dormitories satisfying legal conditions, as pictures show, most of them are inadequate to function as a "dormitory".⁸

After the death of Sokkheng, the poor housing conditions of migrant workers and their residential right became a social issue and the Ministry of Employment and Labor came up with several measures. First, the Ministry would not allow employment permits if temporary buildings installed "in the vinyl house" would be provided as a dormitory. Also, if a foreign worker is provided illegal temporary buildings as his/her dormitory, he/she can apply for a change of the place of business without limitation. (Current Employment Permit System does not allow migrant workers to change workplace freely, and even in case of changes without blame of the worker, the number of times is limited to five. The decision of the Ministry

⁷ The Hankookilbo, 25, January, 2021,

(<https://www.hankookilbo.com/News/Read/A2021012509290004257?did=NA>)

⁸ Danbinews, 27, June, 2020, (<http://www.danbinews.com/news/articleView.html?idxno=13153>)

means that they would not count the number in case where it is a inadequate dormitory condition problem.)

However, these measures are only temporary remedies.⁹ The first step by the Ministry of Employment and Labor shows passiveness because the use of temporary buildings as dormitory itself has not been prohibited. In any case, it must be stated as illegal to provide temporary buildings such as containers and prefabricated panels as a dormitory regardless of whether it is inside or outside a vinyl house. Furthermore, regarding easing the regulation for allowing workplace change, it is likely that migrant workers will not be able to ask for workplace change due to concerns about possible disadvantages given by the employer after the request is rejected, and there are practical difficulties in collecting and submitting evidence. It is also difficult to find alternative workplaces because most farms use temporary building dormitories.

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In addition, it is also problematic that the official guidelines, which allow 8-20% of the normal wages to be deducted from temporary housing and lodging expenses, have not yet been abolished.

3. Civil Society's Suggestion on the Migrant Workers' Dormitory Issue

Currently, the condition of housing for migrant workers in South Korea is lamentable. Dormitories provided by employers are mostly temporary buildings such as Vinyl houses and containers built with panels, often without even adequate toilets and shower facilities. The National Human Rights Commission of Korea recommended the government to improve the residential environment of migrant workers twice in 2013 and 2017. However, the policy and reality of the migrant workers' dormitory issue remained unchanged, leading to tragedy such as the death of Soekkheng.

⁹ Laborplus, 7, January, 2021, (<http://www.laborplus.co.kr/news/articleView.html?idxno=26317>)

After The United Nations advised the South Korean government in 2017 and 2019 to take measures against the increasing number of people who stay in the inadequate housing which do not meet the minimum standard, Ministry of Land, Infrastructure and Transport is working on establishing minimum housing standards that take into account not only quantitative aspects such as minimum residential area but also specific qualitative aspects such as safety and hygiene. However, migrant workers are still excluded from this Housing Standards Act. As the UN Special Rapporteur on the right to adequate housing pointed out, Migrant workers are still exposed to discriminatory housing conditions as South Korea still has not ratified The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.¹⁰

Housing rights are universal rights that should be guaranteed without discrimination, regardless of the nationality or color of skin. The UN Special Rapporteur on the right to adequate housing visited Korea in 2018 and pointed out the poor housing conditions of migrant workers.¹¹ The Republic of Korea should improve the humiliating housing conditions offered to migrant workers. Temporary buildings such as vinyl houses should be banned from being provided as residential dormitories, and employment permission should be provided only to the work places that meet specific housing standards. Above all, the Republic of Korea should quickly ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families to improve the discriminatory treatment towards migrant workers in the Republic of Korea.

¹⁰ A/HRC/40/61/Add.1

¹¹ A/HRC/40/61/Add.1