

## Institutionalization of Precarious Legal Status: The Case of Ghanaian Refugee Applicants in Korea\*

RITA UDOR | EWHA WOMANS UNIVERSITY

*This study examines the precarious status of refugee applicants in Korea. It illustrates how government actions and inactions contribute to the legal production of “illegality.” The study further highlights how the current binary classification of migrants as legal versus “illegal” fails to explain why migrants deemed as legal are unable to enjoy full rights and find themselves perpetually vulnerable to falling into undocumented status. The lines between legal versus illegal are blurred, thereby making the status of migrants who fall in between these categories, and are never captured, precarious. Interviews conducted with male Ghanaians who have either been rejected from asylum status or are current asylum seekers living in Korea were used to support the claims made in this article. The findings reveal that the South Korean government’s restrictions of work permits for legal migrants, lack of laws and policies governing work of refugees as well as the exorbitant cost and cumbersome application process for refugee status make some people abandon the process. In addition, the government’s failure to meet the demand for labor in certain industries makes the recruitment of undocumented migrants appealing to employers. The findings of this article reinforce the argument that government policies contribute to the production of migrants’ precarious status.*

**Keywords:** *precariousness, legal status, undocumented migrants, refugees, Ghanaians, Africans*

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## Introduction

Tan is a Ghanaian refugee applicant in South Korea (hereinafter Korea). He came to Korea for fear of persecution in his home country. Upon arrival, he applied for refugee status. Since it would take a substantial amount of time to evaluate his application, he was given a temporary visa that allows him to remain in Korea while he awaits the decision regarding his refugee status. After six months in Korea, Tan was eligible to work. Unable to find a company willing to sponsor his work permit, Tan took up employment without a permit. Just days into his time at the company, there was an immigration raid and Tan was arrested and detained. He was later asked to pay a fine of 1,000,000 won (900 US Dollars). Tan, though documented, lives in a state of precarity similar to his friends who are undocumented. Notwithstanding the long hours he works, he is paid below the national minimum wage. In addition, he receives no social protections such as health insurance. Assessing the case of Tan, is it enough to solely blame Tan for his predicaments? Calavita (1998) and De Genova (2002) both argue that governments significantly contribute to producing migrant's "illegality."

The self-serving state is constantly formulating and manipulating its policies to suit its agenda. In doing so, some of the framed policies have the tendency to render some migrants' statuses precarious and deny them full participation in society. Furthermore, the legal status of migrants is an unstable one. By this assertion, migrants who are documented may become undocumented and then return to their former documented status, though this newly regained status can be lost again. In Korea, the most practical way for "illegal migrants" to regain legal status is by marriage to either a Korean national or a legal foreigner, or by having a child with a Korean national. However, status acquired via these means can be lost following a divorce, expiration of the legal status of a foreign spouse, or even the death of a child with a Korean, if these events occur before naturalization. The loss of legal status plunges migrants back into a vicious cycle of precariousness.

The case of Korea is of paramount significance because of its restrictive refugee laws and consequent low refugee acceptance rate despite the high influx of asylum seekers to Korea. The number of asylum seekers in Korea is estimated to be over 35,000, a number even higher than the 32,467 North Koreans living in Korea (Ministry of Unification 2018). This situation, coupled with strong anti-immigration sentiments, makes asylum recognition very dicey. This was evident in the treatment of Yemeni asylum seekers

whose arrival in Korea resulted in public protests and petitions urging them to leave (*Time* October 17, 2018; *The Guardian* July 12, 2018). The refusal to grant refugee status to even those deserving of it creates a situation where asylum seekers find themselves in legal limbo. Korea is a signatory to both the 1951 Refugee convention and the 1967 protocol. In accordance with this, Korea is mandated by international law to adhere to the spirit and letter of the Act. Regionally, Korea was also the first Asian country to enact a domestic Refugee Act, which came into force in 2013 (UNHCR, Korea 2013). As the first Asian country to establish a domestic refugee law, responsibility is placed on the country to demonstrate a good example for other states within the region to emulate. As Korea falls short of meeting its obligations to refugees, some of these asylum seekers find themselves in a precarious state. In order to examine the institutional production of asylum seekers' precariousness in Korea, the framework developed by Goldring et al. (2009) on the precariousness of legal status was used. Data was collected from both current and former male Ghanaian asylum seekers to support the claims of this paper.

This study is also significant as it helps contribute to the discussion on asylum seekers and the refugee situation in Korea. It also questions whether there is an Asian style of refugee regime characterized by state centrism (Moon 2016), with a concomitant low recognition of asylum seekers. Lastly, it emphasizes the need to develop comprehensive measures for dealing with asylum seekers in Korea, as the current approach adopted by the government seems to only further expand the proportion of migrants living in precarious conditions. Even though this study focused only on Ghanaians in Korea, the experiences described in this paper can be said to be similar to what most refugee applicants experience in Korea.

## Methods

This study makes use of both primary and secondary data. Primary data was collected directly from participants, whereas the secondary data utilized centered mostly on official government policies regarding asylum seekers, international organizations, as well as studies published in academic journals and recognized news websites. For the primary data, a purposeful sampling technique was adopted for this study. In order to capture the precarious legal status of asylum seekers, former and current male Ghanaian asylum seekers were sampled. This paper does not intend to examine the influence of race

and gender in asylum seekers precariousness. However, due to the sensitive nature of the topic and the legal status of some of the migrants, it was practical to recruit participants who already had a rapport with the researcher and consequently were comfortable sharing their experiences. Male participants were sampled for this study as the majority of asylum seekers from Ghana are males. The presence of few Ghanaian asylum-seeking females can be partly ascribed to the deterrents of the prohibitive costs of embarking on the journey, limited social networks, as well as the risk involved. Some of these male asylum seekers arrived in Korea through a third-party country which is not a signatory to the refugee convention. Informed by their friends who were already in Korea, they decided to come to Korea.

In order to capture their experiences with the refugee application and working conditions in Korea, only those who had lived in Korea for a minimum of six months were recruited for this study. Participants were enlisted from a church (pseudonym Gye-Nyame church) where most of them participate in fellowship every Sunday. Even though the church has two other meeting days, most of the members attend only the Sunday service. Long-term engagement with the participants made it easy to approach and interview them. The researcher approached most of the study participants directly and took their contact details, upon which time an appointment was scheduled with the participants. Over 95% of the interviews were conducted in the homes of the participants while the remainder took place on the church premises. In addition, snowball sampling was utilized to reach other qualified participants.

Interviews, using semi-structured questionnaires, were used to collect data from participants. These interviews were conducted individually. The semi-structured interview questionnaire was divided into six broad themes: living conditions and employment prior to migration to Korea, living conditions in Korea, employment and workplace conditions in Korea, housing, healthcare, and the role of the church in facilitating their life in Korea. The interviews lasted between 40 to 120 minutes. These interviews were recorded and later transcribed. Most of the interviews were conducted in English, while a few others were in Twi, a regional Ghanaian language.

The purpose of the interview was explained to participants and anonymity and confidentiality were assured to them by the researcher. Participation was voluntary. Oral consent was sought from participants before interviews commenced. Participants were also made aware they were being recorded, and that the recordings would be used solely for the purpose

of this study.

In all, thirty male participants were recruited for this study. Their ages ranged between twenty-six to fifty-two years old, with about fifty percent being between the ages of forty to forty-nine years old. Eighty-six percent (26) of the respondents were Christians while the remaining were either Muslims (2) or were of traditional African religious faiths (2). Almost all of the participants were married, with only 6 being single and one person separated. The educational level of the majority of the participants was low. Two of the respondents had master's degrees, three persons had bachelor's degrees, nine had high school diplomas, and the rest were educated up to the middle school level.

Reasons for seeking refuge in Korea varied. While the majority cited religious persecution (7), or fear of losing their life due to refusal to take up traditional chieftaincy roles (8), others also cited their sexual orientation (8). One of the participants said he was wrongly accused of killing someone and the family members of the deceased had threatened to kill him in retaliation. The rest cited the ethnic conflict which had claimed the lives of their family members as what caused them to embark on their journey to Korea to seek asylum.

In terms of the legal status of the respondents, six of them were documented (current asylum seekers) while the rest (24) were undocumented (unsuccessful asylum seekers), who had lost their legal residence status. The number of years each of the respondents had been in Korea varied. Three of the participants had lived in Korea for less than 1 year, 6 of them between 1 and 3 years, 14 between 4 and 6 years, 1 person for 8 years, and the remaining participants for over 10 years. All participants, except one, could speak the Korean language beyond the basic level, irrespective of the number of years they had been in Korea.

As for their working experience in Korea, only three worked the standard 8-hour days. A majority of the participants worked anywhere between 9 to 12 hours regularly; working overtime that could span up to 16 hours on some days. The number of days spent working per week was 6 days for the majority of the participants. Only seven of the interviewees worked 5 days a week. None of the participants had ever signed a contract of employment nor had they ever belonged to a workers' union. Two persons had had a work permit in the past, but as of the time of conducting these interviews, none of the participants had a valid working permit. Only five participants described their work as safe, four said it varied, and the rest described their job as dangerous.

In terms of their history of migration, about half of the migrants entered Korea via a third-party country. They took this route to Korea because it was difficult to secure a Korean visa directly from Ghana. The rest made a direct journey from Ghana to Korea. Those who came directly from Ghana either entered on a business or conference visa while those who made the journey through a third-party country entered on a tourist visa. Despite having diverse backgrounds and legal statuses in Korea, their experiences of precarious legal status were all similar. The distinguishing feature, however, was that those who had lived in Korea for a minimum of eight years tended to have more stable jobs but low salary. In contrast, more recent entrants had higher wages but more unstable employment.

### The concept of precarious legal status of migrants

In an attempt to conceptualize precarious migration status, Goldring et al. (2009) expanded earlier works by Aleinikoff (1997), Menjívar (2006), and Vosko (2006). Aleinikoff (1997) emphasized that the binary classification of migrants as either legal or illegal was inadequate. The author shows how access to US membership and rights were comprised of “circles of membership” with citizens at the center. Next is a bigger circle of people, constituted of migrants with permanent residence status, with fewer rights and fragile ties. Finally, there are the long-term residents and undocumented migrants occupying the extreme end (cited in Heyman 2001; Goldring et al. 2009). This is depicted in figure 1 below.

His conceptualization demonstrates how the United States is hierarchically stratified and that the extent of rights a person is afforded is based on the circle to which they belong. However, this conceptualization ignores the blurred lines between the various categories and also fails to acknowledge the



Source.—Heyman 2001 cited in Goldring et al. 2009

Fig. 1.—Membership and Rights

constant movement between such categories.

Menjívar (2006) also highlighted how the current classification of immigrants as legal and illegal was unsuccessful in explaining the cases of migrants from Central America in the United States, caught up in a situation of temporal permanency or “in-betweens.” Their legal status in the United States can neither be referred to as refugees nor as economic migrants. This status is further marred by constant application deadlines, renewals, and complicated administrative processes. She, therefore, proposed the use of liminal legality to describe these people who are neither here nor there. Menjívar’s work is very important in highlighting how government policies place migrants in a status which cannot be explained by the binary classification of migrants as legal or illegal. However, Goldring et al. (2009) criticized the work of Menjívar (2006) as lacking context and being racially blind. Despite her introduction of the use of the liminal legality to describe migrants who are caught in between statuses, her classification still emphasizes the strict classification of migrants into clearly defined categories, neglecting how such categories may change over time as well as the effects of context or location on such categories (Goldring et al. 2009).

In order to demonstrate how context plays a role in the classification of migrants, Goldring et al. (2009) adopted Vosko’s (2006) use of precariousness to emphasize the importance of situating discussions of citizenship and immigration status within context. Context shapes regulations used in controlling who becomes a citizen with rights who and has access to social services. De Genova (2002) also corroborates how context shapes migrants’ illegality. Vosko’s definition highlights economic and political conditions as well as how race and gender interact to produce migrants’ precariousness (Marsden 2012). By echoing context, as suggested by Vosko (2006), Goldring et al. (2009) defined precarious migration status as multidimensional, less-than-full legal status characterized by the absence of elements normally associated with permanent residents or citizens.

These multidimensional aspects of precariousness include routes to irregularity/pathways to loss of status, variability in forms of irregularity, potential movements between these forms, precarious dimensions of some secured statuses, absence of rights associated with various forms of irregularity, and possibility of losing authorized temporary status. Their framework is important in many ways as it shows the different paths to migrants’ “illegality.” In addition, it provides flexibility which helps us to capture how the precarious status of different migrants can differ upon context. It also shows how policies of governments may land migrants into

precarious status. Lastly, it demonstrates the weaknesses in some of the secured paths to legal status.

## Global and regional refugee issues

Right from its inception, Asian states were adamant in refusing to embrace the 1951 Refugee Convention and the subsequent 1967 Protocol. This attitude was fueled by most Asian states' contention that the Convention was Eurocentric and did not reflect the needs of Asian countries. They also cited the financial burden that came along with ratifying both the convention and protocol (Davies 2006). The financial argument is not entirely factual, as even poorer countries outside the region have been willing to receive asylum seekers. More so, Japan, as a rich nation, heavily contributes towards humanitarian aid and was the 4<sup>th</sup> highest donor of aid worldwide as of 2015 (OECD 2015). In addition, national interest and public sentiment about refugees seem to influence such a stance. For example, in both Japan and South Korea, most asylum seekers are perceived as economic migrants who are coming to take the jobs of locals, or as people whose presence may further dilute their so called pure one bloodline (Omata 2015). Thus, the number of countries which are signatories to the Refugee Convention and Protocol within the region are relatively few (See UNHCR (2015) for State parties to the 1951 Refugee convention and 1967 Protocol). In addition, Asia is also the only region without a regional refugee agreement (Moon 2016). This makes rallying regional commitment and enforcement challenging.

Though the number of Asian countries which have ratified both the convention and the protocol has changed during recent times (see Taylor (2018) for full list), the translation of such ratification into full implementation is relatively low. Between the period of 1994 and 2018, 42,009 persons applied for asylum recognition in South Korea. Of this number, 20,974 (49.9%) of the applications have been completed (Migration Policy Institute 2016). The acceptance rate between 2004 and 2017 stood at a mere 1.5% (Statista 2017). Similarly, Japan received 5,000 applications in 2014 of which only a 0.2% acceptance rate was recorded. Both countries have performed appallingly when compared to other developed countries in the West. The United States accepted 29.8% (25,199) of asylum applicants in 2013; Germany and the United Kingdom granted refugee status to 21.7% (37,640) and 37.2% (11,635), respectively, of applicants in 2014 (Omata 2015). It is worth mentioning here that the poorer Southeast Asian countries are thought to be



performing better than their rich East Asian counterparts. For instance, in 2015, the Philippines agreed to temporarily accommodate Syrian refugees until their final resettlement in other countries. Malaysia also accommodated 154,000 refugees and asylum seekers from Syria in addition to 45,000 Rohingyas coming from Myanmar (*Brookings* September 22, 2016). Clearly Korea and Japan have demonstrated their reluctance to accept asylum seekers despite having signed the 1951 Convention, optional Protocol, and enacting a domestic refugee law in the case of South Korea. On one of his visits to Japan, former United Nations High Commissioner for Refugees, António Guterres, encouraged Japan to review its refugee recognition process as the system he observed was too rigid and restrictive (Omata 2015).

### *Background of Refugee situation in South Korea*

South Korea, a former refugee-sending country during both the Japanese rule and the Korean War, is now a refugee receiving country (Migration Policy Institute 2016). As a former refugee-sending country, observers hoped that both the government and citizens alike would be in a better situation to understand the plight of others in need of safety (Harrell-Bond 2013). Instead, Korea continues to shut its doors to these populations with a series of citizen-led protests and petitions (Haas 2018). Some have even gone as far as praising USA president Donald Trump for his belief of “putting America first” by not accepting migrants (*Fortune* June 28, 2018). This reaction, however, is not extended to refugees from North Korea as they are believed to be defectors, not refugees. The first refugee South Korea accepted was from North Korea (S. Kim 2010). After which, several others were accepted. In 2017, South Korea accepted only 96 cases of the 7,291 non-North Korean asylum seekers (Worlddata.info 2017). This number is just a fraction of the 1,127 North Korean refugees (Ministry of Unification 2018) who were accepted within that same year. The total number of North Korean refugees which had been admitted to South Korea stood at 32,467 as of 2018 (*ibid*).

The high rejection rate of asylum seekers has been attributed to government mistrust of asylum seekers as they are viewed as economic migrants and not otherwise (H. M. Kim 2012). At the same time, it is believed that national interest and state-centrism override international obligations (*Brookings* September 22, 2016; H. M. Kim 2012). In some cases, the government has resorted to employing transnational organizations to verify whether an asylum seeker was actually in danger. This was seen in the case of Burmese asylum seekers in South Korea (H. M. Kim 2012).

In most cases, humanitarian status is granted to those who have been rejected for actual refugee status. This was evident in the 339 of 481 Yemeni asylum seekers who were recently granted humanitarian status (*Hankyoreh* October 18, 2018). This humanitarian status permits them to live in the country for a period of time. However, this status is subject to constant renewal. The process of being rejected is also not a straightforward one. Asylum seekers have to endure waiting periods longer than the six-month period stipulated in the Refugee Act of South Korea (UNHCR, Korea 2013). Kim believes this slow pace of refugee status determination puts them in a situation of uncertainty (H. M. Kim 2012). Asylum seekers have also complained about the widespread discrimination and lack of basic social assistance in Korea (Human Rights Watch 2017). The refugee process in Korea characterized by low acceptance rates, red-tape, and temporary status, and it places asylum seekers in legal limbo. Limited studies have looked at how such actions by the government may put some of these asylum seekers in a precarious legal status. This current study thus aims to fill this gap.

### *Refugee determination Process in Korea*

South Korea ratified the 1951 Convention on the Status of Refugees and the 1967 Protocol in December 1992 (United Nations Human Rights Commission [UNHCR] 2015). It was partly integrated into the national law and later became a presidential decree, eventually taking form as the Refugee Act which came into force on July 1st, 2013 (UNHCR, Korea 2013). According to this act, persons who file for recognition as refugees are granted a G1 visa. The G1 grants its holders eligibility to work once six months has passed since their date of application. During the six-month waiting phase, applicants can file for support for living expenses for a maximum of six months. In 2014 the amount for living expense was set at 382,200 won (335 USD) for persons not residing at the refugee center, and 267,540 (237 USD) won for persons residing in the center (UNHCR, Korea 2013). G1 visa holders who are eligible to work first need to find a company willing to sponsor their visa. Once they find a company, they must submit the name of the company to the immigration office, who then grants them a work permit. In the event that they change their place of work, they must go through the same process of getting a company to sponsor them first before they can receive a new permit.

The refugee determination process either grants applicant's refugee or humanitarian status, or rejects the application altogether. If granted refugee

status, the applicant is granted a new visa F-2 which allows them to permanently remain in Korea, but the visa can be revoked under certain circumstances stipulated in the Refugee Act (Ministry of Justice 2015). Others who may not qualify for refugee status but cannot be rejected are given humanitarian status. On the other hand, if rejected, migrants are given a notice of non-recognition. Applicants may appeal to the Ministry of Justice within 30 days. Those with valid grounds are granted refugee status, and those without valid reasons are repatriated (ibid). As previously stated, the majority of refugee applicants have their applications rejected, and the acceptance rate remains about 1.5% (Statista 2017). In 2017, the government granted 290 humanitarian visas to asylum seekers (Human Rights Watch 2017).

### *Background on African Migration to Korea*

During the Korean War, two African countries, Ethiopia and South Africa, joined the South Korean military to wage war against North Korea (Korean War Educator n.d). Once the war ended, some South Koreans migrated to various African countries, including Libya, Egypt, and South Sudan throughout the 1970s and 1980s. It is estimated that in 1985, about 23,138 South Koreans were living in Libya (Seok 1991). African migration to Korea, however, only started around the late 1990s. Statistics on African migration to Korea is scarce. The total number of African migrants currently residing in Korea is also not known. The Korean Statistical Informational Service (KOSIS) estimates the total number of South African labor migrants in Korea to be 752 (KOSIS 2015). This figure excludes undocumented migrants. KOSIS also estimates the number of students from African countries to be 2,925, which forms 2.1% of the total 135,087 international students in Korea (KOSIS 2017). In addition, the number of African refugee applicants in Korea for 2017 was 2,666. Out of this number, only 28 were accepted while the rest were rejected (Worlddata.info 2017). This reflects the low overall refugee acceptance rate in Korea.

Korea does not have a labor recruitment agreement with any African countries except South Africa, where teachers are recruited to teach English in Korea. The Employment Permit System (EPS) in Korea is an agreement which only exists between sixteen, mainly Asian, countries (Y. Park and Kim 2016). Due to this, African immigrants who desire to work in South Korea yet are not included in such employment agreements have maneuvered their way to seek employment in Korea “illegally.” The long geographical distance,

language barrier, and cultural differences do little to deter them from embarking on this journey. According to Geon-Soo (2003), there were about 2,272 undocumented African immigrants residing in Korea in 2002, which was about 1% of the total number of undocumented immigrants in Korea.

African migration to Korea has a gender dimension as well, where the majority of Africans to Korea tend to be males, even among students. However, the inverse is true for the overall international student numbers in Korea. A study conducted by Geon-Soo (2003) confirmed that the majority of African labor migrants were male. Another factor that makes African migration to Korea a gendered one is the gender composition of marriage migrants. Current data shows that as of 2017, there were 445 African men and 164 African women married to Korean women and men, respectively. This phenomenon is contrary to the current discourse of the feminization of marriage migration to Korea (H. K. Kim 2012) or the phenomenon of bachelor surplus as reported by G. Kim and Kilkey (2018). Africans living in Korea organize themselves along country lines and have various associations. Nigerians, as well as other African migrants, are reported to live in high concentrations at Osan and other parts of Gyeonggi-do (Geon-Soo 2003).

The ill treatment of Africans based on their skin color is also very prevalent in Korea. The media is viewed as both the cause of and solution to this problem. Black individuals have reported discrimination and denial of opportunities based on skin color, and this discrimination even occurs in the field of education, where black American teachers have also reported being discriminated against (H. A. Kim 2017). Studies on African migrants in Korea are very limited despite their increased presence in the country. Thus, this study also aims to provide valuable information on African migrants in this regard.

### *Trends in precarious status and employment of labor migrants in Korea*

Precarious employment and precarious status of migrants are not new phenomena in Korea. However, the composition, process, and forms have broadened over time. Until recently, Korea maintained a closed-door policy to foreign labor due to the mythical belief of the country being a homogeneous “one-blood” country (Hahn and Choi 2006). As a consequence of rapid economic growth, Korea began its first importation of foreign labor in 1993. It was called the Industrial and Technical Trainee Program Scheme, or ITS, after the introduction of industrial training for joint ventures. These migrants were in a precarious position as they were not recognized as workers but

trainees. As such, they could not receive protection under the law in the same manner as typical laborers. They engaged in perilous 3-D (dirty, dangerous, and difficult) jobs, laboring under terrible conditions (Hasan 2011). As a result, the majority of them escaped from their workplaces and became undocumented. In 1991, 90 percent of the 45,000 labor migrants who were mainly recruited to address the labor shortage in certain industries were undocumented (Chung 2010). An abrupt response from the government was the immediate arrest and deportation of these undocumented migrants. However, civil organizations and pro-immigrant groups met this move by the government with unsavory criticisms and protests between 1994 and 1995. In response to the persistent protests, the government introduced a bill that granted legal status to trainees who had worked in Korea for more than two years (ibid) under the scheme known as the Employment Management System (Y. Park 2004). This legalization program by the government did not, however, reduce the number of undocumented immigrants in Korea. By 1998, the figure had increased to 100,000, and then a further upsurge to 289,000 in 2002, making up 70 percent of labor migrants in the country (ibid). Business owners exploited this window of opportunity by employing tourists who had overstayed the stipulated duration of their visas. These tourists were mainly from China, Thailand, the Philippines, Mongolia, Vietnam, and Indonesia (ibid). The continual protests and fierce criticisms by civil organizations and international bodies coerced the government into introducing a series of laws to protect migrant workers. With the dawn of a new era, laws and rights previously reserved for locals were now extended to foreign workers. Notable among them were: “The Immigration Control Act, Act No. 7006, Mar. 24, 20057 (ICA); The Act on the Treatment of Foreigners in Korea, Act No. 21214, Dec. 31, 20088 (ATFWK); The Act on Foreign Workers’ Employment, ETC., Act No. 9798, Oct. 9, 20099 (AFWE); The Labor Standard Act, Act No. 10366, Jun. 10, 201010 (LSA); The Minimum Wage Act, Act No. 8964, Mar. 21, 200811 (MWA); and [Occupational Safety and Health] The Industrial Accident Compensation Insurance Act, Act No. 9988, Jan. 27, 201012 (IACIA)” (Hasan 2011).

The government also introduced a post-training employment program for trainees who had worked faithfully. They were offered the right to stay in Korea and be treated as employees, not as trainees. In addition, the two-year training program was shortened to one year. At the same time, the length of employment was increased to two years (Yoo 2005).

Industrial trainees were mandated to work in manufacturing, construction, and the agro-livestock sectors. They were, however, exempted from working

in the service industry (*ibid*). In order to further ensure the preservation and enforcement of the rights of migrant workers and make their experience less precarious, the Employment Permit System (EPS) was introduced in 2004. Its introduction was also intended to address some of the challenges arising from the ITS. The recruitment process was made less precarious by the elimination of middlemen and agents, as it was a bilateral agreement between the Korean government and the labor-sending counties (J. M. Kim 2015). With the EPS, prospective workers are made to go through a series of training such as Korean language study and work training. During the post-admission stage, they receive further training from their employers. EPS workers are also then enrolled in the Korean insurance package (J. M. Kim 2015). In addition, this new system granted employees a three-year contract, with the possibility of an extension of an additional twenty-two months after which beneficiaries are obliged to return to their home countries. One remarkable achievement of the EPS is the fact that it treated foreign labor migrants the same way it treated locals, at least in principle. The EPS was praised for its transparency and for its adherence to the protection of human rights of migrant workers (Y. Park and Kim 2016).

The EPS gave many undocumented migrants the opportunity to apply for a legal work permit. Meanwhile, unqualified migrants were granted the option to leave the country voluntarily in order to avoid deportation. This led to a reduction in the ratio of undocumented migrants down to 40 percent of the total of migrant laborers in Korea (Y. Park 2004). The government, however, did not relent its efforts to reduce the number of undocumented migrants in the country. In 2006, it was estimated that the number of undocumented migrants stood at 211,988, of which a total of 18,574 were deported in that same year, according to the Immigration Bureau (2006, 2007) as cited by the Global Detention Project (2009). Even though the number of undocumented migrants, as opposed to registered migrants, has drastically reduced, the government continues to crack down on undocumented immigrants. Data shows that 10.5% of foreigners currently living in Korea are undocumented. In 2017 alone, the government cracked down on 13,000 undocumented immigrants by deporting some and ordering more to leave that same year (Koreantimes 2017).

One of the main successes of the EPS is the fact that it has led to the protection of migrants' rights and prevented abuse of migrants (J. M. Kim 2015). Despite the great successes achieved with the inception of the EPS, critics believe that the scheme only further places migrants in a precarious status. Amnesty International (2009) describes the scheme as exploitative in

the areas of the recruitment, health, safety, detention, and working conditions. The EPS also positions migrants in a precarious status due to the principle of tying workers to an employer. By this, workers find it difficult to change jobs, thus making them vulnerable to exploitation and unfair dismissal (Amnesty International 2009). Not only that, both migrant workers and civil organizations have called for the abolishment of the EPS system and have labeled it as “modern day slavery” (*The Korean Herald* January 28, 2016).

Precarious employment in Korea also takes on a gendered dimension, as it has been reported that superiors or co-workers sexually assault many women. Women have also been found to be more vulnerable as they are more easily trafficked and exploited (Amnesty International 2009). Most of these women work in the arts and entertainment industries. Thus, the exclusion of workers in the arts and entertainment field from eligibility for the E-9 visa further compounds the precarious status of women (ibid). In addition, foreign brides who face abuse are forced to endure such marriages due to fear of losing legal status as residents. Those who manage to escape such abusive relationships have their status terminated thus becoming illegal (H. M. Kim, Park and Shukhertei 2017).

Despite the wide coverage and policy response addressing the issue of migrants’ precarious status, the current discourse fails to capture the precariousness in its entirety. It is extremely skewed towards labor migrants, especially those formally invited, but fails to capture those I term “the uninvited guests”: refugee asylum seekers and Africans. This current study seeks to provide further information on this group of people.

## Findings

### *Institutional production of precarious legal status in Korea*

Apart from ethnic Koreans with foreign citizenship, almost all immigrants who enter Korea do so on a temporary basis, and their status may serve as a contributing factor to becoming precarious. It is not within the scope of this paper to describe how the various categories of visa bearers become precarious in Korea. This study primarily focuses on the path through which asylum seekers become precarious in Korea.

If one were to read over the government’s policy documents, the process of applying for refugee status may appear to be a straightforward procedure.

In reality, the process takes longer than expected. According to participants interviewed, some asylum applicants have to wait for a period of up to two to three years before their case is heard in court. During this waiting period, refugee applicants are granted temporary visas, subject to constant renewal. All asylum seekers interviewed complained about the frequent nature of renewal as well as the short validity usually granted them, and how it contributes to their abandonment of the process as a whole. MB, a rejected asylum seeker, narrated how he became undocumented. When asked how he lost his status MB replied:

“My sister, it is not easy. After your first court case, the immigration office doesn’t give you six months’ visa. They give you two months, one month, three months. Every month you have to go to immigration, but my boss doesn’t like that. The thing is they won’t give you [a] refugee visa, so I didn’t go again.”

Their experience is similar to the case of Central Americans in the US discussed by Menjívar (2006). The short nature of permits, usually lasting between one and three months, has been described by some as burdensome because applicants are unable to constantly seek permission to take time off work from their bosses in order to get their visas renewed. Some also said the frequent nature of renewal makes it very easy to forget the next renewal date.

The Refugee Act also stipulates that refugees are entitled to a living allowance within the first six months of their application. It further states that “the persons who will receive living expenses support will be selected every month among applicants” (Ministry of Justice 2015). This means that not all persons receive a monthly allowance even if they qualify based on the first six-month criteria. At the same time, they are banned from working during that same period. A person found working is fined an amount of 1,000,000 Korean Won (900 USD). Second-time offenders are automatically deported. In view of the fact that not all eligible persons are supported with living allowances, many end up working without a permit in order to make ends meet. This puts them in a situation of precariousness. Almost all refugee applicants interviewed for this study said they did not receive the allowance, and instead experienced arrest as a result of working without a permit and were made to pay a fine as well. Some of the participants did not also know they were entitled to an allowance, while some with knowledge about the process said they did not apply due to the inconvenience and complexities that characterized the application process. Even after the hassles of the



application, there is no guarantee of a favorable consideration and selection. KI, a rejected asylum seeker, when asked whether he received an allowance, replied in his local language:

Which money? Do they give you money when you go for a refugee? Me, I never received any money. I don't think any of my friends got it as they would tell me. (KI 2018)

KI was one of the informants who said he came to Korea because he was persecuted for his sexual orientation. When asked why he chose Korea instead of other Western countries where most Africans often seek refugee status, he responded:

You know; it is very difficult to get a visa to these countries, but I don't want to go through the sea. It is very difficult going through Libya, but getting a Korean visa is a bit easier than American or Canada, so I decided to come here. Now am here and my life has become something. (KI 2018)

These contradictory practices of the government demonstrate how migrants' "illegality" is constantly being produced by the state. Furthermore, it shows how fuzzy the lines between legal and "illegal" status are. Though these asylum-seeking migrants are documented, the restrictions placed on them are similar to their undocumented counterparts. Both are denied working permits, despite one being documented. As a result, both can be caught and punished for working without a permit, thus making the status of an asylum seeker a precarious one.

Another area where the government's policy-making machinery puts asylum seekers in a precarious situation is in the lack of policies on the rights of asylum workers and absence of responsibilities placed upon company owners. Unlike in the EPS system, which clearly specifies the rights of the workers as well as the responsibilities of the employers, asylum-seeking applicants do not have such rights enshrined in any documentation. For example, at the pre-migration stage of EPS, job seekers are made to learn Korean, matched with employers, sign employment contracts, and are enrolled in Korean insurance programs. At the post-admission stage, EPS workers are granted additional training before deployment to work sites. There is also monitoring and support by the Ministry of Employment and Labor and from civil organizations alike (M. J. Kim 2015). These arrangements are missing when it comes to asylum seekers with permission

to work. Once they arrive and are fortunate enough to have a company to sponsor their work permit, they immediately start to work. According to the participants interviewed for this study, none had received any training before beginning to work. In addition, only one person was enrolled in the national health insurance. This particular participant who had enrolled in the national health insurance was a refugee applicant who had lost a finger and therefore quickly registered in order to reduce the cost of surgery. Most participants complained about the high cost of medical care when they visited the hospital. Also, none of the participants could speak Korean beyond the very basic level, except for one person who is an undocumented migrant and has lived in Korea for 13 years. The language barrier thus contributes to constant yelling and abuse by supervisors and bosses, and puts workers in a precarious position. KB, a refugee seeker who lost his finger within a week of working for a construction company, cited the language barrier as one of the causes that contributed to the incident in which his finger was lost. This is what KB had to say when asked whether he has ever been unfairly treated. He responded in the affirmative, but was quick to add that the incident may have been due to the language barrier.

There are several tools around us. We were working so it is construction, so the boss when he needs maybe a hammer, he can't speak hammer in English instead of him to do signs, something like this, he won't do and he is mentioning the name in Korean back to you. Instead of him to do signs, maybe tape measure instead of him to do something like this, he just mentions the name in Korean. (KB 2018)

When questions pertaining to healthcare were posed to a former asylum seeker, he bemoaned how expensive it was to meet his healthcare needs and, as such, explained that he had resorted to self-medication. He also acknowledged his health had greatly deteriorated since coming to Korea. Three weeks after this interview was conducted, he died of a heart-related problem. Prior to his death, he had lived in Korea for two years and worked in several companies but spent a year working at different construction sites. He often worked long 12-hour days from Monday to Saturday but was not covered under any insurance plan. He soon became sick and so he eventually quit his job.

Apart from the challenges cited above, the lack of training also puts asylum seekers in a precarious situation. Asylum seekers are provided with no training, nor are they linked to a particular employer or company. They

may be assigned to different jobs on a daily basis, and the lucky ones are able to gain “long term employment,” which lasts about three to six months. It goes without saying that there are exorbitant commission fees which must be paid to employment agents. This occurs as a result of a lack of stringent regulation of private employment agencies. One asylum seeker narrated how they secured jobs through the “arabite” (a local recruitment agency) office and were referred to different companies for different jobs on a daily basis.

Arabite, you won't get the same job. Different jobs, different jobs that you have never done it before. You go and meet different kinds of job. Whether you have experience about what you going to do or not, if you think you can do it, then you have to do it. (KB 2018)

In addition, asylum seekers described how both having a work permit or not having a work permit can land them in a precarious status. According to most of the asylum seekers interviewed, they were aware their application would eventually be rejected, but since many applications are submitted, it usually takes a long time before their cases are heard in court. This long waiting period grants them ample time to work and accumulate some money. The applicants, aware that their application would be rejected, preferred to be on this temporary status. The liminal legality described by Menjívar (2006) is cherished and seen as better than no status by some of these migrants. During my fieldwork, some of the respondents who were on the G1 visa recounted how they continued to pray daily that they would not be asked to appear in court for the hearing of their case. They complained of how even applying for a job permit may attract immigration officers to immediately process your case for court. SF, a documented asylum seeker, expressed how applying for work permits shortens your stay here in Korea. Consequently, some choose voluntarily not to apply for a work permit, while others who may wish to receive a work permit are incapable to do so due to the reluctance of most companies to sponsor their work permits. During my field study, I encountered asylum seekers who were eligible to work but had no company to sponsor their visa, thus they had worked illegally, were arrested and made to pay a fine of 1,000,000 Korean Won (900 USD) as first-time offenders. Working without a permit also exposes them to arrest, torture, detention, fines, or outright deportation.

My friend and I went to the company to work. My agent told me about a job in another city. We got the job in a mattress company through an agent. We

told the boss we had papers, so we wanted to register at immigration. The boss said no so we should just work. We worked there for ten days. One day, I think one of the Korean workers reported us to immigration and these people came there. My friend and I didn't work at the same place. They arrested me first and went to the area where my friend was working, and he was also arrested and some other two guys from Egypt. I tried to run but they threw something which made me fall. When I fell, about four men rushed on me and used something like electric to shock our shoulders and knees. They did that to all of us repeatedly. We couldn't walk or raise our hands. It was very painful, so they dragged us into the car and sent us to a detention center. Our phones were seized but we begged them, but they refused. In the evening when they gave us dinner, we refused to eat. We didn't eat for three days so they became worried and they gave us our phone only to pick some contact numbers of our friends. My friend and I both didn't have a calling card so there were some Filipino ladies who gave us their card. After one week a friend was able to bring us money. We were lucky because it was our first time, they made us pay one million Won each and they left us to go. You know I still feel the pains where they shocked me. After all this, can you believe the boss refused to pay us? (CF 2018)

According to the *handbook for refugee status determination procedures* in Korea, asylum seekers have the right to receive assistance from an attorney as well as request interpretation from a professional (Ministry of Justice 2015). These services are not free, however, and in fact come at a high cost. The high costs associated with the process of obtaining refugee status also discourages many asylum seekers from continuing the process. Interview participants bemoaned the exorbitant prices charged during the judicial process. These fees increase based on the stage and type of court an applicant is asked to attend. For example, NB, a former refugee applicant, spoke about the high fees he had to pay at court as well as to his lawyer. He had two court appearances. For these two hearings, he paid 600,000 Korean won (540 USD) and 800,000 won (720 USD) respectively to his lawyer. In addition, he paid 350,000 won (315 USD) twice for interpretation service at the court, as well as 420,000 won (378 USD) and 600,000 won (540 USD) respectively for his first and second appearance at court. In the end, his application was rejected, rendering him precarious. In addition to cost, interview participants also complained of the cumbersome administrative processes which they had to go through. Some complained of how scattered the process is; how they are asked to submit a document here, another there, and so forth. In their eyes,

the government only wants to frustrate them, and that is why the process is not centralized at a single location. NS, who holds a Master's degree and was seeking refuge in Korea because his village wanted to make him the next chief of their hometown, which contradicted his Christian beliefs, related to me that he decided to escape as his life was in danger for rejecting the request of the elders of the village. When asked to share his experience of going through the refugee determination process, he had this to say:

It is very difficult. Sometimes you feel bad, the treatment at the court and the whole procedure is very difficult. During the interview, it is like their aim is to do everything to make you lie. So, when you are saying the truth, there will be somebody arguing with you that it is not true. The main refugee program of Korea is like from day one, they make their mind not to give you. You pay money and you get your card. (NS 2018)

Due to the exorbitant costs and accompanying frustrations, some applicants decide to abandon the process altogether, ultimately landing them in a precarious position. They believe their request for refugee status will never be granted.

Rejected asylum applicants can renew their status and continue to live in Korea if they file for a judicial review. Once an unfavorable decision is made on an asylum application, the asylum seeker can appeal, and once their case gets rejected, they can refile and begin the process again. After they have exhausted this second chance, they are prohibited from appealing and are given a date by which to leave the country. If they fail to leave before the given date, they lose every right, and become undocumented migrants. Once undocumented, they are not allowed to work in Korea. In contrast, they are often hired as day-laborers due to the shortage of workers in most industries; employers have complained about the long wait-time and competition for the limited quota of EPS workers released every year by the government (M. J. Kim 2015). As a result, undocumented migrants come in handy for these employers. Employers also patronize undocumented migrants merely because they are easily exploited and also do not have to fulfill any legal obligation to them, such as the provision of insurance and severance pay, a feature of the EPS system. This puts undocumented migrants in a precarious situation. Undocumented migrants are unable to demand their rights due to fear of losing their job or worse, being deported.

The ongoing discussion described above demonstrates how government policies contribute to the institutional production of migrant's precariousness.

*The cycle of precariousness and recourse after the loss of status*

Once migrants, including those possessing refugee applicant visas (G1), lose their status they are left with a narrow escape route: marriage. Getting married to either a Korean or a foreigner with legal status, or having a child with a Korean national offer the only viable means of procuring legal status. Marrying either a Korean or a foreigner confers different rights and restrictions. A foreigner who marries a Korean is granted an F6-1 visa, while the F6-2 visa is offered to a person who has a child with a Korean or is planning to raise a child in Korea as an unmarried person (Korean Immigration Service 2018). Having this visa is the dream for most migrants because it grants them the liberty to work in any industry they choose with fewer restrictions. This visa offers migrants some form of stability and security. Transitioning from being undocumented to becoming documented shows how fluid migrants' statuses are. Marrying a Korean does not automatically lead to naturalization. If divorce occurs before naturalization, the migrant is considered unfit for citizenship (Andeson, Gibney, and Paoletti 2011) or becomes an "unwanted individual" (H. M. Kim et al. 2017) and is thus deported. They are also not allowed to remain in the country to complete legal procedures (ibid). Those who refuse to return to their country of origin find themselves in another cycle of precariousness. Persons who have a child or children may be a little more fortunate, as their visa remains valid due to their children.

On the other hand, a migrant who marries a foreigner with legal status is granted the F3 visa (Korea Immigration Service 2008), known as the spousal dependent visa. Migrants with a spousal dependent visa have the legal right to remain in Korea as long as his/her partner's visa is valid. This visa, unlike the F6, does not allow the migrant to work. However, in many cases the migrant must work to support his or her family. As a result, some end up working without permissions and become precarious. Sometimes these marriages are contracted only to obtain legal status and are not real. In such fake marriages, the migrant has to pay amounts ranging from \$4,000 US to \$6,000 US to the intended spouse, either in a lump sum or in installments. This sum places a huge financial burden on the shoulders of these migrants, making an early return to their home countries unlikely. In some cases, foreign spouses may lose their status, which automatically renders the dependent migrant "status-less", thereby landing them again in the cycle of precariousness. It is worth noting that a migrant in a precarious status is not

accorded any rights even if they have a child. However, in recent times, a new mother and her baby may be allowed to remain in Korea temporarily before deportation in the case that she is arrested by immigration officials or police. This arrangement, however, does not apply to a man with a young child. Once arrested, he is deported immediately, irrespective of having a baby or not. Korea does not offer citizenship or permanent residence rights based on birth in Korea. Thus, parents are denied the privileges enjoyed by their counterparts in Western countries.

Status, whether legal or illegal, is never fixed and is very unstable. Reinstatement of legal status after being undocumented does not mean the end of precariousness for migrants in Korea.

## Discussion

Borrowing from the conceptual framework of precarious legal status put forth by Goldring et al. (2009), this study intended to analyze how migrants' "illegality" is produced by government policies in the context of Korea. The framework is multidimensional in nature. These dimensions include routes to irregularity/pathways to loss of status, variability in forms of irregularity, potential movements between these forms, precarious dimensions of some secured statuses, absence of rights associated with various forms of irregularity, and the possibility of losing authorized and often temporary status.

From this study, we learned that a migrant's route to irregularity includes working without authorization. Asylum seekers are required by law to provide proof of an employer who is willing to sponsor their visa. In this study, most of the asylum seekers who were eligible to work found it difficult to find a company to sponsor their visa, and thus most of them worked "illegally," making their status precarious. Secondly, the rejection of asylum status puts asylum seekers in a precarious position. Once an application for asylum is rejected, the migrant may appeal the decision in court. During this period of appeal, the migrant is barred from working.

Unlike Europe, where migrants enter through the sea, and the United States, where migrants enter through the border, Korea does not face any such problems regarding immigration via clandestine border-crossing. Instead, most undocumented migrants are those who have overstayed their visa, those who are engaged in activities beyond their visa status, or asylum seekers whose applications were rejected. I found this to be true in the

case of this study.

Secondly, context, which shapes the variability in forms of illegality, were highlighted in this study. Geography or location shapes the type and composition of migrants a country receives. In the case of Korea, the majority of migrants with precarious status are those from other countries within the region, such as Chinese migrants. In addition, the formal recruitment of temporary labor from countries within the region contributes to shaping the forms of illegality. As reviewed above, South Korea, just as its Japanese counterpart, maintains a restrictive and stringent asylum regime (*Brookings* September 22, 2016). The belief in a homogenous society and pursuing national interest first affects the issues of immigration and refugee determination, as well as the treatment of asylum seekers. It also determines the nature of the precarity of asylum seekers within the country. In South Korea, refugee issues are seen as 'their' (individual refugee and country of origin's) problem and not 'our' (South Korea's) problem. A similar observation was made by Phil Robertson, deputy director of Human Rights Watch, Asia division, while describing the position of Korea in the handling of refugee issues; "Koreans versus outsiders," a phenomenon which allows Korea to openly accept people fleeing from North Korea, while at the same time rejecting those it views as outsiders (*Voice of America* August 5, 2016). It is no wonder the number of North Korean refugees accepted is vastly higher than Non-North Korean refugees. As non-North Korean asylum seekers are rejected at a very high rate, those rejected, suddenly having nowhere to go, remain in Korea and become undocumented. Unfortunately, existing data on asylum seekers who become undocumented or "illegal" is very limited. When discussing issues of asylum seekers, it is very important to put into consideration contextual factors that shape the process and treatment of asylum seekers.

Potential movements between forms of status were made evident in this study. Through the study it was found that there was a constant shift between status, making the binary classification of migrants as legal or illegal inadequate. Asylum seekers (documented) easily became undocumented and once again transitioned into documented status, especially through marriage. There were also shifts within the binary classification. For example, a documented asylum seeker going through judicial review is banned from working. When this person marries a legal foreigner, his status becomes stable, but at the same time, that person is prohibited from working. Movements within forms of status may not necessarily halt the production of precariousness. Instead, it produces a new form of precariousness.



In addition, the precarious dimensions of some with 'secured' status were analyzed herein. A rejected asylum seeker who marries either a Korean or a legal foreigner becomes legal. However, in the case of a person married to a Korean, if there is a breakdown in the marriage before naturalization, a migrant may find themselves back in a precarious situation. In the event of marriage breakdown with a legal foreigner or loss of status of the legal foreigner, the migrant will also find himself in a precarious status. This further shows the precarious dimensions of those thought to have secured legal status.

Precarious status defines the extent of rights and privileges accorded to a migrant. An asylum seeker who has lived in Korea for less than six months, those eligible to work but without companies to sponsor their visa, and those going through judicial review are prohibited from working. The right to work is denied to these groups of people. However, they are also not granted any financial aid to help them meet their daily needs, except for a few lucky asylum seekers who are selected within their first six months of applying for refugee status. Asylum seekers are thus faced with the burden of survival. This burden to survive is what pushes asylum seekers to take up jobs illegally. Furthermore, those who are fortunate enough to have a working permit are not protected under any policy. Thus, some find their rights abused by their employers without any course for redress. The privileges enjoyed by other migrant workers is absent in the life of these asylum seekers though they are eligible to work. Precarious status limits the rights enjoyed by a person as demonstrated in the lives of asylum seekers in Korea.

The effect of precariousness can, however, be mitigated by access to information, social networks, as well as social availability (ibid) that the migrant or asylum seeker possesses. During my field research, I observed that almost all of the participants did not have health insurance. To meet their healthcare needs, participants often depended on free medical services sometimes offered at the church, Gye-Nyame, which they attended. As the medical services sometimes offered at their church covered basic illnesses, most of the migrants with complicated cases visited specific hospitals which offered services to undocumented migrants. Those without such information have no choice but to live with their ailments and manage them either through self-medication, drugs from Ghana, or drugs bought from pharmacies here. Furthermore, people with information about vacancies at their companies or place of work share such information with their close ties. Others also are able to receive information regarding jobs at their church. These findings reinforce the importance of social networks in shaping the

outcomes of migration and labor force participation (Piracha, Tani & Vaira-Lucero 2016).

The last dimension of the concept of precarious status is the possibility of losing legal status. The possibility of losing status is very prominent among asylum seekers in Korea. Asylum seekers easily lose their status after a negative decision is made regarding their refugee application. For example, in the case of asylum seekers, even before applying for refugee status, many applicants are already aware their application will be rejected, and they will subsequently become precarious. Asylum seekers on humanitarian status may also easily lose such status once the government fails to renew it after its expiration date. Asylum seekers may also lose their status if they work without a sponsored work permit. As they find it difficult to get a company to sponsor their visa, most end up working “illegally,” making them highly susceptible to losing their status.

## Conclusion

The case of both current and past asylum seekers in Korea proves how government laws contribute to the production of migrants’ “illegality.” These laws are used to determine who belongs, who is excluded, as well as the extent of rights and privileges accorded to migrants. Menjívar believes that this dictates the different channels to assimilation taken by migrants within society (2006). The precarious status of asylum seekers in Korea raises the question of whether the mere ratification of international laws, as well as the enactment of domestic refugee laws, is enough to ensure the rights of asylum seekers. Through this study, I was able to demonstrate how the current laws, due to their partial implementation, vagueness in the definition of rights, omission, and very restrictiveness, constantly lead asylum seekers into situations of precariousness. There is, therefore, a need to ensure full implementation of existing laws as well as provide additional policies which will ensure asylum seekers are fully protected.

By using the conceptual framework of Goldring et al. (2009), the study presented here shines a light on the routes to “illegality,” many migrants go down, of which engaging in work without proper visas or authorization is a primary one. In the absence of any financial support, asylum seekers have no option other than to seek employment. I have also highlighted the potentialities of losing legal status. In addition, asylum seekers who continue to stay in Korea after the expiration of their visas find themselves in a

precarious state. The variability in forms of a migrant's "illegality" in Korea emphasizes how national interest affects the composition and forms of a migrant's "illegality."

Through this study, I have also highlighted the potential movements between and within the binary classifications of migrants. Stories of asylum seekers featured in this research further depicted the blurred lines and unstable nature of such statuses and the resulting precarious status of such migrants. There were asylum seekers who were legal or documented, but, in reality, their experiences were not any different from their counterparts who were considered "illegal." Lastly, the absence of rights and privileges, such as access to national health insurance and work permits, was very evident in the lives of both asylum seekers and undocumented migrants. Access to information and social networking helped mitigate the effects of precariousness.

The study also contributes to existing literature on precariousness by demonstrating how important context is. Past studies of precarious legal status have often focused on Western countries, especially the United States and Canada (De Genova 2002; Menjívar 2006; Vosko 2006; Goldring, Berinstein, & Bernhard 2009 & Marsden 2012) as well as migrants from Latin and Central American countries. Asian countries, especially East Asian countries, have been found to adopt similar restrictive immigration and asylum policies. National interest and protection of a pure bloodline takes precedence over international obligations. By focusing on the case of Korea, the issue of context in defining asylum seekers' precariousness is further emphasized.

Marriage to either a Korean or a foreigner with legal status, as well as giving birth to a child with a Korean national, are the only routes to regain legal status for many migrants. While marrying a Korean offers the migrants more rights, marrying a foreigner provides relatively few and limited rights. For instance, those married to legal foreigners are not allowed to engage in economic activities irrespective of the income level and family size of the migrant. This situation further destabilizes their status, as in most cases, the income of one partner is not enough to provide for the entire family. This leads to a cycle of precariousness as asylum seeker's legal status is continually shifting due to government legislation.

Studies on African migrants in Korea are very scarce. This study, therefore, aims to contribute in this regard. There is a need for further research to examine the immigration policies of Korea and the various paths by which migrants' become precarious. Furthermore, studies which focus on how race

and gender influence precarious status through the use of larger samples of participants are proposed.

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*RITA UDOR* is a doctoral student in International Studies at Ewha Womans University. As a doctoral student, her research interest centers on the refugee issues, undocumented migrants and the inter-sectionality between race and gender. *Address*: Room 1105, International Studies Department, Graduate School of International Studies, Ewha Womans University, 52 Ewhayeodae-gil, Seodaemun-gu, Seoul, 120-750. [*E-mail*: rudor2@gmail.com]

