

Report on the Rights of Refugees in South Korea

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I. Introduction

1. Research Goal

This report aims to shed light on the rights of refugees and ongoing problems concerning refugees in South Korea and to call for a change in the Refugee Act, related regulations, and practices, as we mark the 10th anniversary of their implementation this year. NANCEN (the Refugee Rights Center) intends to present these findings and recommendations for the identified issues to the South Korean government, its citizens, and the international community.

The South Korean government can be distinguished into the central government (particularly the Ministry of Justice), and the local (urban) government. Looking at examples from other countries, the Barcelona regional government also holds a different stance from the central government regarding perceptions of refugees. This demonstrates the potential for local government in South Korea to adopt different positions from the central government. We urge the central government and the Ministry of Justice to genuinely acknowledge the issues highlighted in this report and to work towards establishing a refugee system that ensures universal human rights. Additionally, we hope the local authorities will proactively demonstrate innovative capacities in resolving human rights issues faced by refugees.

The opinions of South Korean civil society regarding refugees vary between support and aversion, with a wide spectrum of perspectives. We hope that the contents of this report, which provide objective evidence to counter arguments supporting refugee aversion and serve as a basis for advocating refugee rights, will be of great assistance to citizens in various fields. Additionally, we hope that more South Korean citizens will critically evaluate the refugee system from a perspective of human rights and justice and engage in activities to bring about change, and we believe that this report can contribute to that effort.

Finally, we hope that this report will provide a comprehensive understanding of the refugee rights situation in South Korea to all international actors working towards democratizing asylum procedures and practices in their respective countries or regions, including <The Change Initiative>, which contributed to this report. We invite them to join us in urging the South Korean government for change and proposing solutions. International solidarity is crucial in addressing protracted refugee situations, and such solidarity should encompass 1) shared responsibilities and democratic improvements in asylum systems and practices in each country and 2) reflective reference and critique of the institutions and guidelines developed or deteriorated by each asylum system and practice.

Therefore, sharing reports on the refugee rights in each country or region, led by civil society, is an essential activity for international solidarity. These reports can supplement government-led reports that may suffer from biases due to resource and financial constraints. NANCEN's report is a small effort towards fostering such international solidarity.

We extend our deep gratitude and a sense of solidarity to our colleague Norma Muico and <The Change Initiative> for proposing and providing multifaceted support for this report.

2. Research Questions

To observe the rights of refugees in South Korea and propose institutional improvements, the research questions have been formulated as follows:

- 1) What issues are identified through the refugee statistics and related financial report in South Korea?
- 2) What are human rights violations and discrimination against refugees during the process of refugee application, determination, and treatment in South Korea?
- 3) What are the institutional challenges to enhance rights of refugees?

3. Research Method and Data

The research used both quantitative methods (Chapter II) and qualitative methods (Chapter III). The research data aligns with the respective methods. In Chapter II, refugee statistics obtained through information disclosure as of December 31, 2022, and the Ministry of Justice's refugee-related financial report were utilized as primary sources of data. Additionally, financial report from 2020 to 2021 were used to present the flow of human rights budget and comparisons by year. In Chapter III, records of refugee counseling from 2022 to the first half of 2023 and interviews of refugee reapplicants are used as the primary sources of data.

4. Research Structure

The main body of the report consists of three sections: Chapter II. Rights of Refugees through Refugee Statistics and Human Rights Budget for Refugees, Chapter III. Refugee Rights Violation in Practice: Focused on Refugee Application, Determination, and Treatment, and Chapter IV. Institutional Challenges to Promote Refugee Rights.

II. Refugee Rights through Statistics and Human Rights Budget for Refugees

1. Current Statistics on Refugees

NANCEN has been monitoring the domestic refugee situation since 2009. The statistics below are based on the data obtained by requesting information from government agencies related to refugees in December 2022, and then categorizing and calculating the data between January and February 2023. Not all requested data have been disclosed. Undisclosed data, especially concerning reapplicants, residency status, and foreigner detention centers, was not provided for reasons such as "Absence of data" or "Diplomatic relations and fair business practices."

Chapter 2, Section 1 provides a summary of major refugee status and presents the analyzed issues based on related statistics, serving as indicators for the refugee human rights situation in South Korea. These indicators include:

1. Refugee recognition status from 1994 to 2022, when the refugee status determination process commenced
2. Refugee recognition rates
3. Refugee applications and recognition status by reason and nationality
4. Humanitarian status holders
5. Referral rates for refugee applications at ports of entry and departure
6. RSD assessment system and reapplicants

1.1. Summary of Key Refugee Status (As of 2022)¹

- 2022 Refugee status applications: 11,539 cases
- 2022 Refugee status recognitions: 175 individuals
- 2022 Refugee recognition rate: 2.03%
- 2022 Humanitarian status holders: 67 individuals
- Cumulative refugee status applications from 1994 to 2022: 84,922 cases
- Cumulative refugee status recognitions from 1994 to 2022 (excluding cancellations): 1,331 individuals
- Cumulative humanitarian status holders from 1994 to 2022: 2,480 individuals
- Longest first-instance review period: 4 years and 8 months (56 months)
- Average waiting period for first-instance review result: 1 year and 9 months (20.8 months)

1.2. Refugee recognition status

The consistent policy direction embedded in the asylum systems and practices of South Korean society is reflected in the following statistical trend of refugee recognition from 1992 to 2022,

¹ "A brief look at the refugees status in Korea(2022)" accessed 6 Aug 2023. nancen.org/2344

coinciding with South Korea’s accession to the 1951 Refugee Convention (hereinafter referred to as the “Refugee Convention”) (see Table 1). 1) The first-instance recognition rate remains at 30% of the total number of refugee recognitions. 2) The number of resettlements recognized after the implementation of the Refugee Act has been stagnant at 20 to 30 cases, without significant growth. 3) Since 2014, there have been attempts to address 'large-scale' forced migration through humanitarian status rather than refugee recognition. From the perspective of refugee rights, these trends should be diagnosed as a crisis. This is due to the prolonged strategy of the South Korean government to avoid establishing a normal refugee recognition system, protection systems, and practices, and consequent results.

Year	Applications	Recognition	The Ministry of Justice Review					Administrative Litigation			Humanitarian Status	Recognition Cancellation
			First-instance Decision	Appeal Process	Resettle-ment	Family Reunification	Recognition Subtotal	Recognition	Family Reunification	Recognition Subtotal		
1994	5	-	-	-	-	-	-	-	-	-	-	0
1995	2	-	-	-	-	-	-	-	-	-	-	0
1996	4	-	-	-	-	-	-	-	-	-	-	0
1997	12	-	-	-	-	-	-	-	-	-	-	0
1998	26	-	-	-	-	-	-	-	-	-	-	0
1999	4	-	-	-	-	-	-	-	-	-	-	0
2000	43	-	-	-	-	-	-	-	-	-	-	0
2001	37	1	1	-	-	-	1	-	-	-	-	0
2002	34	1	1	-	-	-	1	-	-	-	8	0
2003	84	12	11	1	-	-	12	-	-	-	5	0
2004	148	18	14	-	-	4	18	-	-	-	1	0
2005	410	9	9	-	-	-	9	-	-	-	13	0
2006	278	11	6	1	-	3	10	1	0	1	13	0
2007	717	13	1	-	-	11	12	1	0	1	9	0
2008	364	36	4	-	-	16	20	16	0	16	14	0
2009	324	70	45	10	-	15	70	4	0	4	22	0
2010	423	45	20	8	-	10	38	9	0	9	35	0
2011	1,011	42	3	8	-	13	24	18	0	18	20	4
2012	1,143	60	25	-	-	20	45	15	0	15	31	0
2013	1,574	57	5	9	-	33	47	10	0	10	6	0
2014	2,896	94	18	53	-	20	91	1	2	3	533	0
2015	5,711	105	13	27	22	43	105	0	0	0	198	0
2016	7,541	98	17	10	34	34	95	3	0	3	252	2
2017	9,942	121	27	24	30	35	116	5	0	5	316	1
2018	16,173	144	39	13	26	60	138	6	0	6	507	0
2019	15,452	79	11	3	37	23	74	5	0	5	230	0
2020	6,684	69	10	6	17	30	63	6	0	6	155	0
2021	2,341	72	7	12	0	37	56	13	3	16	45	0
2022	11,539	175	22	14	67	61	164	8	3	11	67	0
합계	84,922	1,331	309	199	233	468	1,209	121	8	129	2,480	7

Table 1: Refugee application/recognition status by year(1994-2022)²

² “Refugee Application/Recognition Status by Year(NANCEN Statistics Institute)” accessed 6 Aug 2023. nancen.org/2344

1.3. Refugee Recognition Rate

In 2022, there were a total of 5,296 asylum decisions, with a total of 175 recognized refugees. The refugee recognition rate in South Korea (number of recognized refugees ÷ number of asylum decisions) is calculated to be 3.3%. This is the calculation method primarily utilized by the Ministry of Justice. However, since resettled refugees are not determined within the asylum system, the actual refugee recognition rate for 2022 should be calculated as 2.03%. Furthermore, when excluding the 67 resettlement refugees and 64 family reunification cases from the total of 175 recognized refugees, only 36 cases were recognized through the asylum process. Expanding the number of recognitions in the asylum process is an essential task, particularly in countries like South Korea where more than 99% of asylum seekers receive protection solely through the asylum system. However, the South Korean refugee system has been bypassing or avoiding such a task. seems to circumvent or evade such a task. While the recognition rate has risen from 1% to 2% in three years, it still remains considerably low compared to the OECD average recognition rate (23%).

Year	Recognition Rate	Calculation Rationale					
		Recognition	Humanitarian Status	Non-recognition	End of Review	Resettlement	Recognized Refugees except Resettlement
2004	69.23	18	1	7	26	Before enactment	
2005	8.91	9	13	79	101		
2006	7.97	11	13	114	138		
2007	12.03	13	9	86	108		
2008	26.27	36	22	79	137		
2009	6.7	74	22	994	1,090		
2010	18.21	47	43	168	258		
2011	12.35	42	21	277	340		
2012	9.24	60	31	558	649		
2013	9.73	57	6	523	586		
2014	6.64	94	539	782	1,415	0	94
2015	3.93	105	194	1,835	2,112	22	83
2016	1.01	98	246	6,013	6,323	34	64
2017	1.51	121	318	5,607	6,015	30	91
2018	3.04	144	514	3,221	3,879	26	118
2019	0.4	79	230	4,757	5,066	37	42
2020	0.4	69	154	6,020	6,243	17	52
2021	1.01	72	45	6,992	7,109	0	72
2022	2.03	175	67	5,121	5,296	67	108

Table 2: Refugee recognition rate by year (2004-2022)³

³ Calculated by NANCEN from data provided by the Ministry of Justice of Korea.

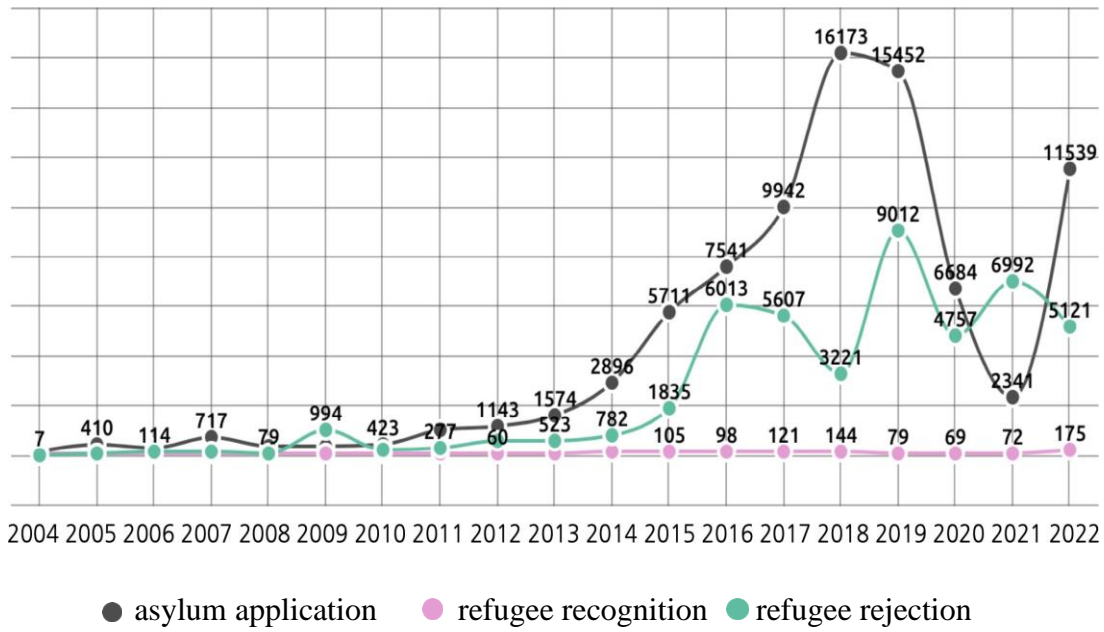


Table 3: Refugee status in South Korea for the past 20 years (2004-2022)⁴

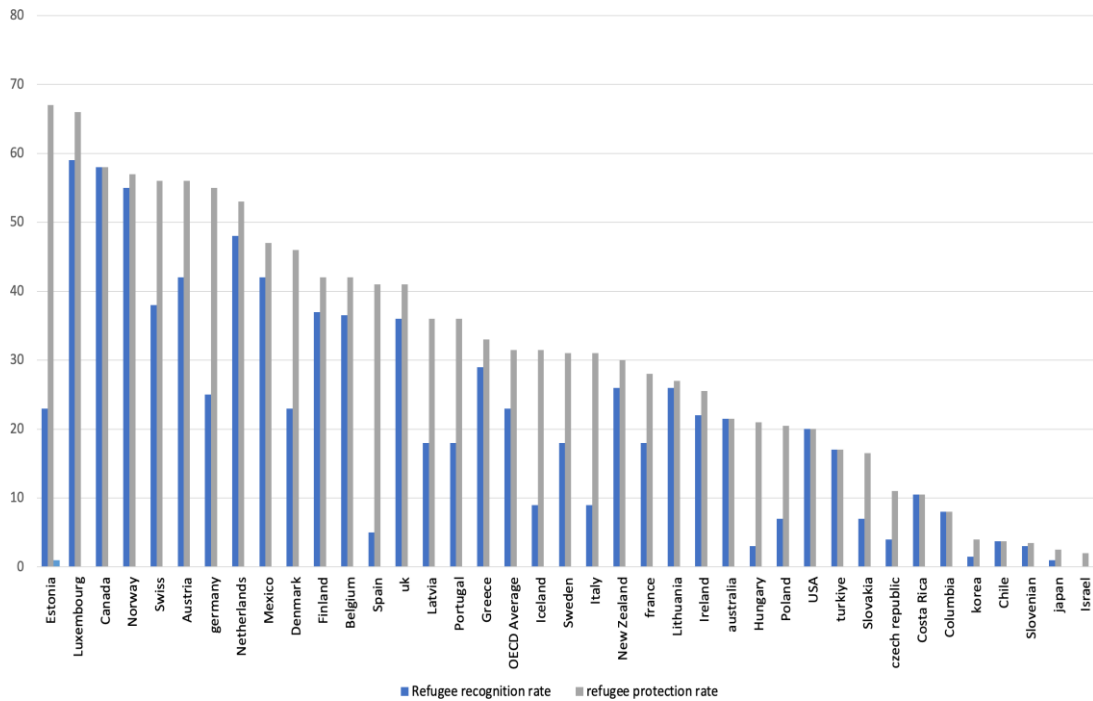


Table 4: Refugee recognition rates and protection rates in OECD member countries (Average for 2017-2022)⁵

⁴ “Refugee Status in Korea(NANCEN Statistics Institute)” accessed 6 Aug 2023. nancen.org/2344

⁵ Jang, Young Wook. (2023). Socioeconomic Impacts of Refugee Influx and Policy Challenges, GLOBAL ISSUE BRIEF, 9, 34.

1.4. Refugee applications and recognition status by reasons and nationality

The Korean Ministry of Justice lists the following grounds for asylum: race, religion, nationality, political opinion, membership of a particular social group, family reunification, or other reasons (including civil war). From 1994 to 2008, the most common reasons for refugee applications were 'political opinion' and 'religion'. However, since 2009, 'other reasons' have surpassed political and religious reasons as the most frequent grounds for applications (Table 5). Despite the significant increase in the number of refugee applications under 'other reasons', no single case of refugee recognition under the category 'others' has been found in the disclosed data up to 2017.⁶ The Ministry of Justice treats 'other grounds' as 'applications that are not recognized under the Refugee Convention' and rejects them on the basis of 'disputes between private parties'. However, behind the asylum applications that the Ministry of Justice observes as disputes between private parties are the absence of public authorities and discrimination within the community. Especially, there are many cases where the police force responsible for citizen protection and legal mechanisms do not function effectively or are selectively applied depending on the socio-economic status of citizens.

Furthermore, there is a need to raise concerns about the Ministry of Justice's determination and classification practices regarding the reasons for applications. When a refugee applicant has multiple reasons for seeking refugee status, the Ministry of Justice selects one of these reasons as the primary basis for the application based on internal criteria. Additionally, the Ministry of Justice may reclassify or amend the reasons for application after the refugee interview. These practices by the Ministry of Justice raise the suspicion that the representative reasons for applicants with multiple grounds (along with 'other' reasons) might be derogatorily reclassified as 'other reasons', implying that their applications are not based on reasons recognized under the Refugee Convention. However, despite the high plausibility, this is still just an inference. It would be necessary to examine statistics on the initial reasons for applicants who were not recognized under 'other reasons', as well as the reclassification/amendment of reasons to prove it.

In relation to the asylum applications and recognition status by nationality, there are certain characteristics as follows. Firstly, there is an increase in asylum applications from distant regions beyond those in close proximity. Secondly, the South Korean government is restraining a large-scale influx of refugees with the same nationality. This involves a control and adjustment of recognition rates for applicants of Chinese origin for a long time, those from Egypt after 2010, and more recently, applicants from Russia. The main application and recognition statuses for key countries are shown in Table 6 and Table 7. For reference, as of 2019, the United Kingdom granted asylum status to nearly 27% at first-instance decisions and close to 30% at the appeal process to applicants from the top five countries with the highest number of asylum applications in South Korea (China, Kazakhstan, Pakistan, Russia, Egypt).⁷

⁶ "Korea Refugee Report(make an as to change the needle in SBS)" accessed 6 Aug 2023.
<https://mabu.newscloud.sbs.co.kr/201807refugee/>

⁷ "Statistical data set Asylum and resettlement datasets(GOV.UK)" accessed 6 Aug 2023.
<https://www.gov.uk/government/statistical-data-sets/asylum-and-resettlement-datasets>

Year	Total	Political opinion	Religion	Race	Membership of a particular social group	Family Reunification	Nationality	Others
2008	364	126	67	66	29	-	0	76
2009	324	88	83	3	20	-	0	130
2010	423	79	57	86	7	-	0	194
2011	1,011	266	151	83	55	-	0	456
2012	1,143	348	291	35	52	29	3	385
2013	1,574	289	369	78	63	65	2	708
2014	2,896	595	903	106	169	114	7	1,002
2015	5,711	1,397	1,311	200	721	43	7	2,032 (Civil War 428)
2016	7,542	601	1,856	38	1,224	297	38	2,166 (Civil War 227)
2017	9,942	1,565	2,927	778	1,101	267	32	3,272 (Civil War 179)
2018	16,173	2,428	3,764	1,054	1,588	492	107	6,740
2019	15,452	1,934	3,792	758	1,462	378	118	7,010
2020	6,684	1,245	1,074	141	534	285	94	3,311
2021	2,341	584	504	80	151	190	5	827
2022	11,539	2,340	1,986	440	502	509	136	5,626
Total	83,119	13,885	19,135	3,946	7,678	2,461	537	33,108 (Civil War 834)

Table 5: Statistics of refugee applications by reason (2008-2022)

Nationality	2022	Nationality	1994-2022
Kazakhstan	2,456	Kazakhstan	9,637
China	772	China	8,224
India	1,278	India	7,961
Türkiye	1,188	Türkiye	6,962
Russia	1,038	Russia	5,351
Others	4,807	Others	46,787

Table 6: Statistics of refugee applications by major nationalities (1994-2022)

1.5. Humanitarian status holder

In the mid-2010s, several major civil wars and subsequent forced migrations occurred globally. The asylum regime in Europe became more restrictive during this period. In South Korea, with the implementation of the Refugee Act in 2013, there was an increase in subsequent applications for refugee status from those who had experienced civil wars.⁸ From this point, South Korea's asylum regime began to actively utilize the humanitarian stay status, a complementary protection mechanism, as a strategy to circumvent and avoid granting recognition to large groups of refugees with the same nationality.

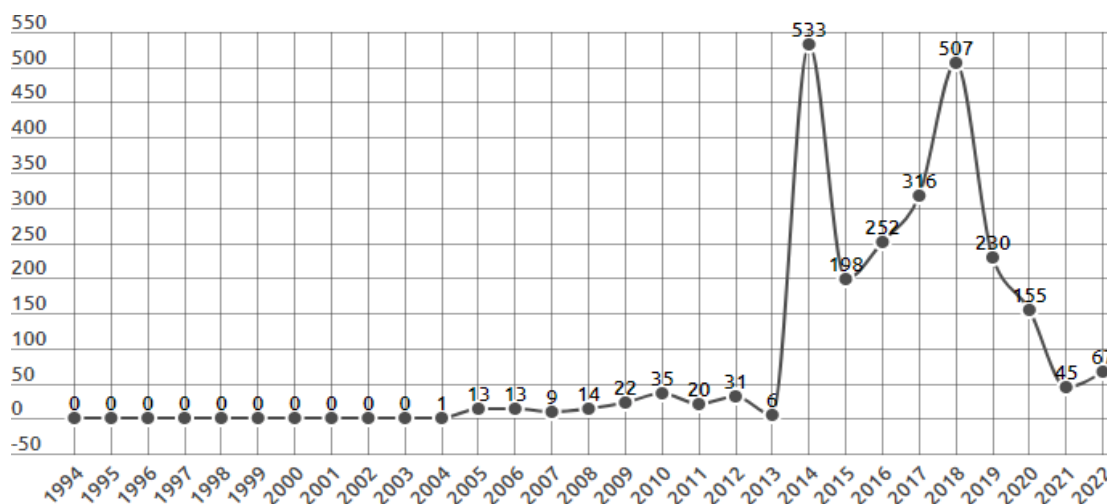


Table 7: Trend on humanitarian status holders by year (1994-2022)

	Total	Syria	Yemen	Myanmar	China	Pakistan	Others
Humanitarian status holders	2,485	1,256	786	45	37	32	329

Table 8: humanitarian status holders by nationality (1994-2022)

1.6. Referral rate of refugee applications at ports of entry

Since July 2013, South Korea has been implementing a refugee application system at its ports of entry. Unlike an application system at immigration offices, there is a ‘pre-screening assessment’ at ports of entry after arrival, determining whether application should be referred to the Refugee Status Determination (hereinafter referred to as a “RSD”) procedure. If the case is referred, the individual can apply for refugee status upon entry. However, if the case is not

⁸ For reference, the sustained increase in refugee applications from 2013 until the present can be seen as a result of a combination of internal factors such as the implementation of the Refugee Act and external factors like conflicts in home countries of refugees and the reinforced restrictive nature of European asylum regimes.

referred, individuals must choose between (forced) repatriation to their home country or indefinite waiting at the airport. While it is not impossible to reverse a non-referral decision, it involves navigating through various procedural challenges (e.g., legal consultation) and enduring an extended period of time without proper welfare support in an unfamiliar environment. Over the past decade, the average referral rate at South Korean airports has been 36.2%. This means that out of 100 people, only around 30 individuals were able to apply for asylum upon entry. There are still refugees at South Korean airports who are unable to even exercise their right to a fair asylum process.

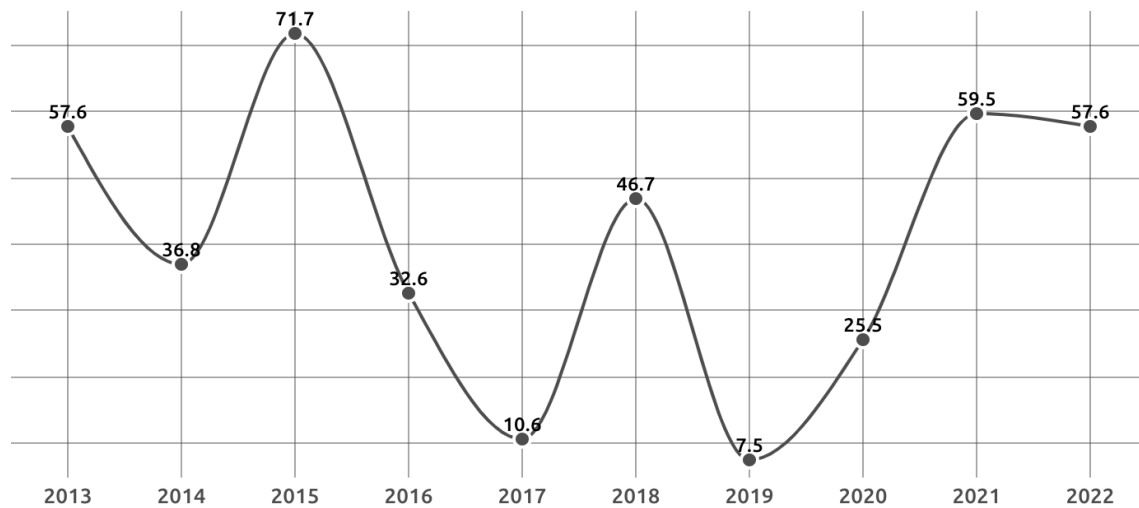


Table 9: A referral rate at South Korean airports (2013-2022)

	Applications	Referral	Non-referral	Withdrawal
2013	25	15	10	
2014	141	52	89	
2015	400	287	113	
2016	187 (Donghae Port 1)	61	N/A	
2017	197	1	N/A	
2018	516	241	264	
2019	188	13	162	15
2020	47	12	41	0
2021	42	25	16	0
2022	391	223	154	10

Table 10: Refugee applications, referrals, non-referrals, and withdrawals at airports in last 5 years (2013-2022)

1.7. RSD assessment system and reapplicant issues

One of the most significant challenges within South Korea's RSD system is the insufficient allocation of personnel for the RSD assessment in comparison to the increasing number of asylum applications. The shortage of assessment personnel (Table 14, 15) has resulted in a decrease in the quality of assessments, prolonged processing times, and increased burdens on refugees. Assessment personnel can be broadly categorized into those responsible for the first-instance procedure (refugee interviews) and the appeal procedure (meetings of the Refugee Committee). However, a significant portion of those responsible for both procedures do not meet the qualifications specified by the Refugee Act, which require civil servants of grade 5 or higher with at least 2 years of experience in refugee-related work. (Table 12, 13)

Year	Grade 4	Grade 5	Grade 6	Fixed-term Employment (Equivalent to Grade 6)	Grade 7	Total	Note
2018	1	3	16		19	39	
2019	1	7	25	20	38	91	
2020	2	8	25	20	38	93	
2021	2	8	24	17	39	90	
2022	2	8	24	17	39	90	No new hires

Table 11: Number of refugee officials by grade (2018-2022)

Year	Grade 4	Grade 5	Grade 6	Fixed-term Employment (Equivalent to Grade 6)	Grade 7	Total	Note
2018	1	3	18		22	49	2
2019	-	4	18	10	33	65	
2020	-	4	18	10	33	65	
2021	0	4	17	8	34	63	
2022	0	4	17	8	34	63	No new hires

Table 12: Number of the RSD officers by grade(2018-2022)

Year	Average annual number of cases per person
2018	154
2019	121
2020	186

2021	129
2022	84

Table 13: Average (annual) cases per refugee officials (the first-instance decision) (2018-2022)

Year	Average number of investigations per person
2018	44
2019	25
2020	27
2021	26
2022	18.9

Table 14: Average investigations per refugee investigator (appeal process) (2018-2022)

Year	Sort by	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	Avg.
2017	Meeting date	Feb. 17th	April 14th	Jun 02nd	July 12th	Sept. 29th	Dec. 1st			
	Cases reviewed	721	1,077	470	801	638	835			757
2018	Meeting date	March 19th	Jun 08th	July 06th	Sep. 07th	Nov. 23rd				
	Cases reviewed	663	507	576	398	469				522.6
	No. of attending members	13	15	13	13	10				12.8
2019	Meeting date	Jan. 31st	March 22nd	May 17th	July 19th	Oct. 11th	Dec. 06th			
	Cases reviewed	432	438	448	416	573	1,171			579.7
	No. of attending members	14	11	15	12	12	13			12.8
2020	Meeting date	Jan. 31st	April 17th	June. 12th	Aug. 07th	Sept. 04th	Oct. 16th	Nov. 06th	Dec. 16th	
	Cases reviewed	216	595	668	728	139	785	445	246	477.8
	No. of attending members	13	13	12	13	12	11	10	11	11.9
2021	Meeting date	Jan. 22nd	March 19th	April 30th	June 11th	July 30th	Oct. 1st	Dec. 3rd		
	Cases reviewed	1,022	1,464	643	626	658	319	317		721.3
	No. of attending members	13	13	13	12	14	15	11		13

2022	Meeting date	Jan. 14th	March 04th	April 28th	June 17th	Sept. 02nd	Oct. 21st	Dec. 02nd		
	Cases reviewed	700	324	382	577	469	391	270		
	No. of attending members	14	14	12	11	14	13	14		

Table 15: Meetings of the Refugee Committee (2017-2022)

This South Korea's refugee RSD system has produced many reapplicants over the years. The practice of large-scale non-recognition decisions under a dysfunctional assessment system is inherently a result of the abnormal structure that places responsibility on individual refugee applicants, specifically issues related to insufficient refugee grounds or lack of adequate evidence. This is a natural consequence of a system that pushes for accelerated RSD process, with many cases on a small number of officers. In 2018, when compared to the UK, which had 485 RSD officers handling 26,547 refugee applications in the first-instance RSD process, South Korea's RSD officers face a significantly higher workload, with each officer handling approximately 238 applicants, as opposed to the UK's ratio of one RSD officer for every 55 applicants.⁹

Furthermore, there has been a consistent accumulation of cases where applicants who have not experienced significant changes in their refugee grounds have won administrative lawsuits. This indicates that both the first-instance and appeal processes were not conducted properly. Finally, the issues and adverse effects of the accelerated RSD that the Ministry of Justice has been conducting in different forms since the enactment of the Refugee Act have been repeatedly pointed out by the National Human Rights Commission of Korea, human rights organizations, and lawyers' associations. There have even been cases of refugee interview fabricated by the Ministry of Justice. The National Human Rights Commission and NANCEN estimated that there were around 2,000 cases of interview manipulation during their investigation.

Year	Refugee applicants	Recognized refugees	Non-recognized refugees	Reapplicants
2004	148	18	7	
2005	410	9	79	
2006	278	11	114	
2007	717	13	86	
2008	364	36	79	
2009	324	74	994	
2010	423	47	168	
2011	1,011	42	277	

⁹ NANCEN & Rights Exposure. (2020). Taking Responsibility: A Reflection on the Refugee Recognition Procedure in South Korea on the 7th Anniversary of the Enforcement of the Refugee Act. 18.

2012	1,143	60	558	
2013	1,574	57	523	
2014	2,896	94	782	
2015	5,711	105	1,835	
2016	7,542	98	6,013	301
2017	9,942	121	5,607	999
2018	16,173	144	3,221	1,165
2019	15,452	79	4,757	794
2020	6,684	69	6,020	1,521
2021	2,341	72	6,992	1,044
2022	11,539	175	5,121	1,851

Table 16: Number of reapplicants (2004-2022)

2. Refugee Budget

2.1. Refugee budget structure and execution rate

The refugee budget is allocated within the Immigration Management category of the Ministry of Justice's general account. The total annual budget of the Ministry of Justice's general account is 4 trillion KRW (Korea Won), with the Immigration Management category accounting for 120 billion KRW. This amounts to 2.9% of the general account budget. As of 2022, the refugee budget is 3.7 billion KRW (3% of the Immigration Management category, 0.1% of the Ministry of Justice's general account). The budget execution for the past year was approximately 2.7 billion KRW (74% of the budget). Over the past four years, the average execution rate of the refugee budget has been 69% (Table 18).

Year	Budget execution rate
2019	98%
2020	78%
2021	56%
2022	74%

Table 17: Refugee budget execution rate in the last 4 years (2019-2022)

Due to the impact of COVID-19, the execution of the refugee budget has been generally low over the past three years (2020-2022). Although the execution rate for 2022 was about 20% higher than in 2021, it still did not fully recover to the pre-pandemic average. The refugee budget is broadly categorized into 1) RSD assessment, 2) treatment of refugee applicants, 3) the Korea Immigration Reception Center, 4) resettled refugees, 5) training/conference participation.¹⁰

¹⁰ The major category "Refugee Recognition Review" in the 2022 refugee budget is further divided into the following 9 subcategories: 1) Refugee Officer Meetings, 2) Refugee Committee Operations, 3) Refugee Committee Attendance Fees, 4)

Among these categories, the lowest execution rate was observed in the category of treatment of refugee applicants (35%). In 2021, treatment of refugee applicants had the lowest execution rate, which was only 11.5%.

Year	Budget	Settlement	Execution rate
2020	931,497,000	575,200,000	61.8%
2021	931,497,000	108,040,000	11.6%
2022	931,497,000	325,171,000	35%

Table 18: Treatment budget, settlement, and execution rates for refugee applicants in the last 3 Years (2020-2022)

2.2. Items with execution rates below 50%

The followings are representative items with execution rates below 50%:

- 1) Budget for enhancing the expertise of RSD officers, including RSD officers training courses (Execution rate: 38.8%)
- 2) Regular Wage for refugee interpreters (Execution rate: 48%)
- 3) Basic health checkups for refugee applicants (Execution rate: 23%)
- 4) Medical expenses for refugees (applicants) (Execution rate: 14%)
- 5) Living expenses for refugee applicants (Execution rate: 29%)
- 6) Refugee education, including Korean language and understanding of Korean society (Execution rate: 18.6%)
- 7) Resettled refugee education for settlement (Execution rate: 48.6%)

Items 1) and 2) are directly related to the expertise and staffing issues of the RSD officers and interpreters. Given the current situation in South Korea where the number of RSD officers and interpreters is significantly insufficient compared to the number of refugee applicants, education targeting these personnel serves as the only functional equivalent to enhance the expertise of the RSD system. Therefore, the Ministry of Justice should actively implement budget execution in this aspect without neglect to ensure that sufficient training is provided.

Items 3), 4), and 5) are the sole categories of the government's budget allocated for refugee applicants. Despite the decrease in the number of applicants due to the COVID-19 pandemic, administrative authorities should have taken measures such as expanding the scope of eligible beneficiaries or modifying promotional efforts to ensure the effective utilization of these budget items. Many experts both domestically and internationally have reported that refugees

Refugee Officer Activity Expenses, 5) Enhancement of RSD Officer Expertise, 6) Interpretation Expenses, 7) Refugee Lawsuits, 8) Refugee Lawsuit Travel Expenses, 9) Operation of COI(Country of Origin Information) Experts. Some of these are further classified as follows: 5) Enhancement of RSD Officer Expertise: RSD Officer Education, Job Training Material Publication, 6) Interpretation Expenses: Refugee Interpreter Certification System, Refugee Interpreter Education, Refugee Interpreter Regular Wage, Refugee Review Interpretation Fees, 7) Refugee Lawsuits: Delivery Fees, Costs of Losing Lawsuits, Lawsuit Delegation Fees.

experienced multifaceted crises in areas such as the labor market, education for their children, relationships, and healthcare during the pandemic. However, neither the central government nor local governments in South Korea provided Covid-19 relief funds to all immigrants including refugee applicants. As a result, immigrants with refugee backgrounds, excluding a small number of recognized refugees, had to weather the crisis through self-reliance measures. Within this context, the failure of the Ministry of Justice and its officials to properly execute the budget for refugee applicant welfare over the past three years should be addressed as a clear dereliction of duty that has led to gaps in protection. Such administrative practices must be improved.

Item 6) pertains to education for refugees within the Korea Immigration Reception Center. Similar to the previous items, the decrease in the number of participants and the frequency of face-to-face education due to COVID-19 has led to a reduction in the execution rate. This situation can be reasonably understood given the circumstances. However, during the COVID-19 pandemic, South Korea's education system actively pursued the normalization of education through remote/online learning, whether its success was substantial or not. In relation to this, it is worth questioning how much effort was made by the personnel responsible for refugee education programs to provide remote/online education to refugees during the pandemic period. An evaluation of the education system established during the pandemic should also be conducted. This is crucial because, in the face of another crisis such as a pandemic, we cannot afford to repeat such abysmal execution rates due to system shortcomings (Table 20). The same question can also be applied to item 7).

Year	Budget	Settlement	Execution rate
2020	105,600,000	9,000,000	8.5%
2021	105,600,000	19,000,000	18%
2022	105,600,000	19,610,000	18.6%

Table 19: Education budget, settlement, and execution rates for refugees in the last 3 Years (2020-2022)

2.3. Refugee applicant's welfare budget: Focused on living expense support program

The welfare system of the South Korean refugee program is primarily targets three main groups: 1) refugee applicants residing in the Korea Immigration Reception Center, 2) recognized refugees, and 3) resettled refugees. Except for the small number of individuals in this category, most refugees residing in South Korea (those who could not enter the center and reapplicants) are effectively excluded from the welfare system (social rights) provided by the government. This is why the livelihood support budget for refugee applicants is significantly important. Not all refugee applicants receive livelihood support; it is not a blanket provision for all applicants. However, the "Living expense support program" is a crucial welfare mechanism as it provides the only means for refugee applicants who are prohibited from employment during the first six months after applying for refugee status.

However, the livelihood support budget has consistently been allocated at the same level every year, regardless of the overall increase in the number of refugee applicants. It provides approximately 400,000 KRW for a duration of three months to about 591 individuals. The execution rate of this budget over the past three years has been alarmingly low as well (Table 21). Furthermore, even the livelihood support budget for the year 2023 has been reduced by approximately 100 million KRW (calculation: 500 individuals * 433,000 KRW * 3.28 months = 710,120,000 KRW). This reduction can be thought to be a reflection of the decreased number of refugee applications and livelihood support during the COVID-19 pandemic, which made it difficult for refugees to enter the country.

However, the COVID-19 situation is an exceptional period, and therefore, the administrative performance during this period cannot be used as the basis for budget allocation in the upcoming years. The budget reduction is a significant administrative error and mistake. Budgets should be allocated based on the stability established prior to the pandemic and the evolving refugee situation both domestically and internationally. Four key reasons support this perspective. Firstly, since 2010, the increasing rate of global forced migration has maintained a high similarity to the increase in refugee applications in South Korea. Secondly, from 2022 to the present, despite the challenges posed by the ongoing COVID-19 situation, refugee applications in Korean society are returning to the average levels before the pandemic (Table 3). Thirdly, the statistics on refugee applications and the livelihood support program from 2017 to 2021 demonstrate a strong correlation between refugee application rates and the rates of livelihood support. Lastly, the livelihood support expenditure has remained at over 95% of the pre-COVID-19 levels during the past three years (2017-2019).

Sort by	2017	2018	2019	2020	2021	2022	2023
Refugee applicants (Reapplications)	9,942 (999)	16,173 (1,173)	15,462 (797)	6,684 (1,521)	2,341 (1,046)	11,539 (1,851)	9,918 (1,208)
Living expense applicants	785	1,774	717	460	78	225	291

Table 20: Refugee applications and living expense applications by year (2017-2022)

The increasing number of refugee reapplications is a direct result of bottlenecks created by the South Korean RSD system. NANCEN frequently encounters reapplicants who face livelihood crises due to the prolonged RSD processes, although precise statistical figures cannot be provided. It is well-known that many refugee applicants experience economic difficulties. Nevertheless, the low execution rate of livelihood support indicates that the government is not adequately providing information on livelihood support for refugee applicants and is not taking measures to improve the convenience of its application process. Furthermore, limiting livelihood support to only the first 6 months from the time of application is problematic. Even after the 6-month period when employment is prohibited, it may take time to secure a job, and the economic vulnerability resulting from unstable employment may persist. Some individuals

may deplete their savings or may need livelihood support after a certain period due to health issues. In the current situation where waiting times for the RSD procedures are not fixed, individuals in need of livelihood support should not be prevented from applying for it simply because 6 months have passed since their refugee application. This issue reflects that the government operates the livelihood support system in a predominantly formal and administratively convenient manner without adequately considering a reality. Therefore, the government should consider extending the period in which livelihood support applications are allowed to better reflect the real needs of refugee applicants, and focus on providing relevant information and enhancing the convenience of the procedure, rather than planning further budget reductions, given the limited budget available.

Year	Budget	Settlement	Execution rate
2020	839,362,000	546,000,000	65%
2021	839,362,000	52,000,000	6.2%
2022	839,362,000	247,186,000	29.4%
2023	710,120,000	In Process	In Process

Table 21: Living expense budget, settlement, and execution rates in the last 4 Years (2020-2023)

2.4. Points of change: Introduction of refugee interpreters evaluation and certification system

As a result of the revelation of the refugee interview manipulation incident in 2018, there were significant changes in the refugee assessment budget, which previously consisted solely of interpretation budget until 2019. 1) In 2020, a new category called "Refugee Interpretation Evaluation" was introduced with a budget allocation of 40 million KRW. 2) In 2021, along with the implementation of a certification system for refugee interpreters, a budget of 79 million KRW was allocated. These developments can be attributed to continuous advocacy following the refugee interview manipulation incident and represent modest achievements after the judgment on the national reparation. The execution rate over three years also shows a notably high average compared to other budget categories.

The "Certification System for Professional Refugee Interpreters" is a system introduced by the Ministry of Justice's Refugee Policy Division to enhance the quality and fairness of interpretation in refugee interviews. This system aims to verify the objectivity and accuracy of refugee interpretation through a competent external organization. It allows individuals to be certified as professional refugee interpreters, enabling them to engage in such activities. The implementation of this system is entrusted to universities and educational institutions.

Ensuring a high level of interpretation resources is a crucial element along with enhancing the expertise of the RSD officers and refugee officials to normalize the RSD system. Recently, NANCEN has encountered this issue more seriously while assisting illiterate refugee

applicants. The South Korean RSD system should be designed not to doubt the words of refugees but to guarantee their right to safely and accurately express their situations, given the prolonged persecution and violence they have endured to come here.

III. Refugee Rights Violation in Practice: Focused on Refugee Application, Determination, and Treatment

1. Refugee status application

1.1. Provision of information

"I didn't know where to go to apply for refugee status when I first arrived in South Korea. It was difficult to find information online as well. I got information about where to apply for refugee status from a foreigner I met in Itaewon. I took the subway to get there, but it was hard to find. There was an information desk at the entrance of the immigration office, but no one was there. I couldn't find the refugee application form. I stood in the immigration lobby and approached a person who spoke Arabic and asked for help. The foreigner helped me get the refugee application form, but it was in English, so I was unsure how to fill it out. I was not informed that I also needed to apply for a visa for my stay separately. Later, when I found out, I went to the immigration office, but they told me that the deadline for applying had already passed, and I had to pay 1.5 million won. I paid 1.5 million won, but the immigration office did not give me a residence card and instead gave me a paper with a departure order written on it. I'm currently undergoing a refugee recognition review without a valid visa(Refugee A)."

Finding information on how and where to apply for refugee status in South Korea is challenging for those who have arrived in the country. Immigration authorities do not provide adequate information on the refugee application and determination procedures. Additionally, the transparency of refugee administration is lacking, with only formal guidance notices posted at immigration offices. Even the existing Refugee Applicant Guidebooks can only be found on the website of the Korean Immigration Service (KIS) and are not consistently and comprehensively distributed to refugee applicants. Consequently, the majority of refugee applicants seek information about the RSD process through friends, acquaintances, the internet, NGOs, religious organizations, and other sources. During this process, many refugee applicants encounter incorrect information that has not been officially conveyed, resulting in procedural or financial harm in numerous cases.

1.2. Translation

"It was challenging for me to fill out the refugee application form in either Korean or English. I couldn't understand the questions. I asked someone who spoke the same language to explain the questions. After roughly understanding the questions, I used a translation app to translate my responses into English. Then, I directly wrote them on the refugee application and submitted it. I went to the reception desk and asked for some help because I couldn't speak Korean or English fluently. However, they didn't listen to me. When I inquired about whether I could submit supporting materials, the immigration officer refused to accept them and insisted that I should translate them into Korean on my own(Refugee B)."

During the process of completing and submitting the refugee application, no interpretation or translation services are provided. Consequently, only applications written in Korean or English are accepted. The official guidelines for completing the refugee application form require applicants to fill it out in either Korean or English. In the case of applications written in another language, they must be translated into either Korean or English and submitted along with the original application. As a result, refugee applicants who speak languages other than Korean or English face significant barriers from the outset of the application process. The official refugee application forms in languages other than Korean or English are not publicly available, and immigration offices, where the applications are submitted, do not offer interpretation services. Therefore, applicants must independently seek assistance from translation companies to complete their refugee applications. Due to the lack of information and financial burden, many refugee applicants turn to friends or even foreigners they meet at immigration offices for help. Some seek the services of administrative agents or lawyers to represent them in the process, but this can result in excessive costs and even inadequate assistance. In these circumstances, completing the refugee application, which is the sole document that can explain their situation, becomes particularly challenging. Making an error at this initial stage can result in a 'refugee status denial' after a prolonged waiting period during the RSD procedure. Moreover, throughout this process, the personal information of refugee applicants may be exposed to potential security risks.

1.3. Legal assistance

“It took me about five years, from applying for refugee status to being interviewed, getting denied refugee status, appealing to the Ministry of Justice, and filing a lawsuit. Throughout that time, I had to do it alone without any help. If I had received support from a support organization or a lawyer, my life wouldn't have been wasted like this(Refugee C).”

In the process of application and determination of refugee status in South Korea, there is virtually no opportunity to receive legal assistance. The Refugee Act explicitly mentions the right to legal representation, as well as provisions related to a trusted individual during refugee interviews. These provisions are established to ensure the rights of refugee applicants, especially those who may be psychologically unstable due to past experiences, by allowing them to have the assistance of a legal representative or a trusted individual during the application and determination of refugee status, particularly during refugee interviews. However, while the right to legal representation is declared in the law, there are no practical programs or systems such as legal aid services (e.g., litigation aids) or public defenders to exercise it. This means that most refugee applicants, who cannot afford legal representation, proceed with their refugee applications without legal assistance. Additionally, although the law stipulates that a trusted individual may accompany applicants during refugee interviews, there is no guidance on this matter, and in many cases, such requests are not permitted.

1.4. Cooperation duty of public servants

“I couldn't get any help from immigration officers throughout my refugee application, submission, and residence visa application processes. I didn't even know how to access such help. When I arrived at the immigration office, I tried to find the information desk, but I couldn't read, so I had to approach people who spoke my native language in the lobby. In this situation, I couldn't obtain information about the refugee application process, so I ended up having a third party from the same region help me write and submit the refugee application. At the reception desk, immigration officers filled out the application on my behalf and guided me through the residence visa application process via this third party. However, they didn't confirm whether I fully understood the process. As a result, I lost my residency status.

It wasn't until the interview process that I first heard about the contents of the application from the interviewer. The information didn't match what I had originally stated, leading to the interruption of the interview and requiring me to rewrite the refugee application. In this situation, immigration officers didn't provide any assistance during the process of rewriting the application, and they didn't inform me about their duty to cooperate. This situation continued during my reapplication for refugee status. I am both illiterate and only completed the third grade of elementary school, which means I couldn't understand words like 'persecution,' 'political,' or 'religious.' Even when I tried to explain what I knew, I lacked the training to summarize key points or structure my responses. I couldn't record the conversations during interviews because I couldn't read or write. To obtain the necessary statements from me, more time for conversation was needed, and it was necessary to reiterate important points even after the conversation ended. However, during two separate refugee interviews, my unique circumstances were never taken into account. Additionally, due to errors in translation by interpreters, my statements were not accurately conveyed, but the interviewers didn't notice these issues. As a result, I couldn't properly describe the persecution I had experienced(Refugee D).”

According to the Refugee Act, immigration officials have an obligation to actively assist individuals who inquire about or express their intention to apply for refugee status. If an applicant is unable to write or faces obstacles such as disabilities that prevent them from completing the application, the receiving official should assist in writing the application, and both the official and the applicant should sign or affix their seals to it. Despite these explicit provisions outlining the duty of cooperation by public servants to assist refugee applicants, even basic information provision or guidance is often not properly carried out. There are few cases where public officials actively cooperate with refugee applicants. Procedures to determine whether an applicant can write or is unable to complete the application due to reasons such as illiteracy or disability are not in place, and there is no guidance on how to request such cooperation. In cases where a refugee applicant cannot fill out the form due to illiteracy or other reasons and must ultimately seek assistance from a third party, there are no mechanisms in place to ensure that suitable interpreters,

qualified interviewers with the necessary expertise, and communication assistants should be assigned and secured for the interview process at the least in order to effective communication. Consequently, any adverse consequences arising from these shortcomings are borne entirely by the refugee applicant.

1.5. Applying for refugee status at an airport

"I asked the South Korean government for help at the airport, but they said no in a way I couldn't understand. I got stuck at the airport for three long months without a chance to talk to a lawyer. It's like being a trapped animal in a cage. I can't sleep well, and I've got these terrible headaches. The room is always crowded, so during the day, I pretty much stay on a bench in the airport. If I go back to where I came from, I could be tortured or even dead. Being here is super tough, but I have no other choice. I just have to tough it out because going back isn't an option(Refugee E)."

The Refugee Act introduced the system for refugee applications filed at ports of entry and departure, filling a regulatory gap that existed under the former Immigration Act. This system aims to broaden opportunities for asylum seekers to apply for refugee status. However, the refugee application referral rate, progressing to substantive refugee recognition review procedures, is unacceptably low. Non-referral decisions should only be based on formal reasons, but their criteria are unclear. In cases of non-referral decisions, litigation against the decision is highly likely to be protracted, and the right to legal representation is not universally guaranteed, which further complicates the situation. Additionally, when asylum seekers receive non-referral decisions and decide to file administrative lawsuits, as their only recourse, they often end up staying at the port of entry for an extended period. While the government started operating departure waiting rooms on August 18, 2022, asylum seekers who are disputing non-referral decisions through administrative lawsuits still face difficulties due to prolonged detention in the confined space of the airport, and they continue to voice their concerns.

2. Refugee status determination

2.1. RSD Officer

"The refugee status determination officer asked me if my phone was turned off. When I replied 'yes,' he suddenly said to me, 'You are currently undergoing an official interview conducted by the South Korean government. Behave properly.' Furthermore, during the interview, he also told me to 'keep your mouth shut' at one point. When I tried to request an opportunity to answer questions from the him, the interpreter said to me, 'I must have told you several times not to speak or move.' This did not appear to be a normal situation at all, and the behavior of the officer and the interpreter was extremely unusual and incomprehensible(Refugee F)."

There are only four RSD officers at immigration offices nationwide (as of 2022, with two in the Seoul Immigration Office, one in the Incheon Immigration Office, and one in the Busan Immigration Office). Due to this lack of human and material resources, Refugee Officers at each port of entry and departure ultimately share the duties assigned to RSD officers so they are responsible for conducting substantive refugee recognition reviews, including refugee interviews. While Article 6 of the Refugee Act Enforcement Decree specifies the qualifications for RSD officers who are responsible for refugee recognition reviews, there is no specific legal provision governing the qualifications of refugee officers. Additionally, there is a shortage of conditions such as supervision, educational programs, evaluation systems, and working environments necessary for developing expertise among refugee officers. In practice, during refugee interviews, refugee officers take charge of the entire process in closed spaces, conducting questions and answers with the refugee applicants through interpreters and concluding the interview. Due to this structure, it is impossible for other officials, including RSD officers, to supervise, manage, or monitor the entire interview process from start to finish. This makes it very difficult to check or rectify situations where refugee officers may misuse their authority or when interviews are not conducted properly, as in the case of the Ministry of Justice's manipulation of refugee interviews. In this context, the absence of even minimal human and material resources for a fair refugee recognition review has resulted in inadequate reviews and significant backlogs.

2.2. Interpretation

"The interpreter did not understand what I was saying at all. The RSD Officer asked me about my experience of 'female genital mutilation', but the interpreter didn't know the terminology and used a translation app on the spot to convey my words. After the interview, I had my interview statement translated with the help of a support organization, and found that many of my responses had not been accurately interpreted. My refugee status was denied on the grounds of lack of credibility because my statements were very different from my first interview(Refugee G)."

The testimony of refugee applicants is crucial in the determination of refugee status, making accurate interpretation essential for effective communication and the credibility and consistency of statements. Therefore, the provision of accurate interpretation is a fundamental requirement, as it significantly impacts the outcome of refugee status decisions. However, efforts to train and select professional refugee interpreters for various languages have been lacking. There have been minimal attempts to identify individuals proficient in minority languages, and aspiring interpreters have had few opportunities for professional training. In the refugee interview fabrication incident, the interpreter in question had only double-majored in Arabic during his undergraduate years, yet he was appointed as a professional refugee interpreter and conducted hundreds of refugee interviews. Furthermore, there is a lack of institutional arrangements to ensure the accuracy and neutrality of interpreters. Even after being selected as a professional refugee interpreter, the

training course has only been held collectively once or twice a year (3 times in 2022). During refugee interviews, interviewers rely solely on interpretation for listening to and recording the statements of refugee applicants, and there has been no way to monitor the accuracy of interpretation. Even after the mandatory recording of refugee interviews was introduced following concerns, the refugee interview video files are not provided, making it difficult to verify the accuracy of interpretation after interviews. Moreover, in the confined interview space, interviewers are entirely dependent on interpreters for conducting interviews. In this process, numerous instances have been observed where interpreters did not maintain a neutral interpretation but interfered with the interview process or obstructed the statements of refugee applicants, displaying inappropriate attitudes. However, refugee applicants are not provided with opportunities to raise objections to such behavior as part of the process. In such an environment, there have also been cases of collusion between interpreters and governmental officers to manipulate refugee interviews. Despite ongoing efforts to implement a refugee interpreter certification system following the refugee interview fabrication incident, there is still no effective means to monitor the accuracy of interpretation during refugee interviews, and the allocation of responsibility in this regard remains unclear.

2.3. Video recording of refugee interviews

"After the interview, I got a copy of the transcript, but the answers regarding my faith were really condensed, and some parts were written differently from what I actually said. I learned that I could request to view the video recording of the refugee interview through a support organization, so I went to the immigration office to check the video recording of the interview. However, I found that some parts of the video were missing, particularly important segments related to my religious activities. It was utterly incomprehensible to me. I thought they were intentionally withholding this information. I requested the video recording file of the refugee interview, which contains my statements demonstrating the sincerity of my religious activities. However, I was told that they couldn't provide the video recording file due to the personal information protection of the interpreter. It's hard to accept that the interpreter doesn't even appear on the video and only their voice is heard. So, I filed a lawsuit, with the assistance of the support organization(Refugee H)."

The Refugee Act provides for the video recording of interviews to secure transparency in refugee recognition review procedures and to strengthen procedural guarantees. However, proper implementation has been hindered as it was only enacted in the form of a notification of rights. After the disclosure of the fabricated refugee interviews by the Ministry of Justice, it pledged to fully implement video recording of refugee interviews in September 2018, and video recording of refugee interviews began to be implemented in practice. However, the transparency of refugee recognition reviews is still lacking as the copying and provision of video recording files are not

allowed. To access the video recording of refugee interviews, individuals must attend a designated location within immigration offices on specific dates determined by the immigration authorities. However, to thoroughly analyze the video recordings and use them as evidence for the protection of rights, it is essential to repeatedly verify and review them with interpreters, lawyers, and other assistants. The majority of refugee denials are still based on the "lack of credibility of the asylum seeker's statements". Given that appeals and litigations are the processes through which individuals seek remedy against such decisions, video recordings of refugee interviews become crucial evidence, and access to these recordings should be made available to the parties involved in the process.

2.4. A factual investigation

"About a month after I submitted my statement, during the interview, the interviewer asked if some parts were missing. It got me wondering about how well-prepared the immigration officials were for the refugee applicant interviews. To make a thorough assessment based on a complete understanding of the applicant's refugee claim, it is essential to check the information such as Country of Origin Information and submitted materials in advance. But it was hard to see such aspects in the immigration interview questions(Refugee I)."

To ensure a thorough refugee recognition review, in addition to the refugee interview, a factual investigation on the refugee applicant's country of origin information (hereinafter referred to as a "COI") and the evidence provided by the applicant should be carried out. The Refugee Act obliges the immigration authorities to actively collect and utilize review materials even favorable to refugee applicants. However, it is rare that RSD officers or refugee officers actively investigate the COI or collect and utilize other evidence favorable to the applicants as part of review materials. Even basic efforts such as adequate preparation for refugee interviews in advance, communication with the refugee applicant's assistants, and reviewing the evidence and statements submitted by the refugee applicant and their assistants have been lacking in many cases.

2.5. Decision on RSD and appeals

"I received a document from immigration stating that my refugee status had been denied, but it was written in Korean, so I couldn't understand why I was denied. I also didn't receive any guidance about the next steps in the process. I could know roughly know document's contents by using a translation app and through an NGO, I was able to confirm the reasons for the denial stated in the document. The reasons in the Notice on Non-Recognition of Refugee Status were hard to accept. I felt that immigration had no understanding of the dangerous situation in my home country. I was also told that I had to write my appeal in English, so without the help of the organization, I wouldn't have been able to do it on time(Refugee J)."

Refugee Interview Report and the Notice on Non-Recognition of Refugee Status are documents that are only provided in Korean, without any translation assistance. These documents are crucial in determining the legality and validity of a refugee's asylum application and hold significant importance in safeguarding the right to defense of refugee applicants during appeals against non-recognition of refugee status. Since most refugee applicants receive any assistance during RSD procedures, the lack of translation for these critical documents poses an important issue in terms of safeguarding the rights of refugees. In the situation where most refugee applicants receive no assistance during RSD procedures, the lack of translation for these critical documents poses an important issue, which can directly threaten the rights of refugees. They often file appeals without additional arguments or evidence, solely based on the notification they receive, as they are unable to comprehend why they were denied refugee status. Furthermore, applicants are entirely reliant on interpreters during their interviews to understand how the interviews were conducted and to verify the accuracy of the proceedings, without the ability to independently validate their accuracy. In February 2020, a Refugee Appeal Division was newly established to handle refugee appeals. The Ministry of Justice has allocated refugee investigators to this division to examine the documents and evidence of appeal, and they have also increased the staff responsible for researching the COI of refugee applicants. As part of these improvements, they have revised an appeal application form, which requires detailed explanations and evidence submission for appeal reasons. However, the appeal application deadline is still within 30 days of the date on which the non-recognition decision of refugee status was received. Moreover, as with refugee applications, it is required that appeals should be written in either Korean or English, and if it is written in other native languages, you must translate it into Korean or English and submit the translation with your appeal. Despite the availability of multilingual guidebooks, the lack of translation support and legal assistance during the appeal process makes it challenging for appeal applicants to thoroughly prepare and submit the application for appeal in Korean or English within the 30-day deadline. This raises concerns that applicants may miss the deadline and be deprived of the opportunity to appeal. Rather than focusing on safeguarding the rights of refugee applicants, it appears that the enhancements made to the appeal process primarily serve the convenience of the appeal review authority. This appears to be aimed at enhancing the convenience of the appeal officers rather than safeguarding the rights of appeal applicants.

3. Treatment of refugee applicants

3.1. Living expense support program

"After leaving the airport, I was lost and didn't know where to go. The money I had brought was almost depleted after only a few days of accommodation expenses. The weather was cold, and I couldn't afford to sleep on the streets. I had no idea of whether I could receive livelihood support or where to apply for it. Unfortunately, I only found out about it after the application period had already passed. I went to Itaewon and sought help from foreigners there. It was extremely difficult to make ends meet each day. It's a time that I never want to remember(Refugee K)."

The living expense support program is designed to provide financial assistance to asylum seekers within six months from the date of submitting their refugee application. It serves as the sole means of livelihood support for asylum seekers who are prohibited from employment for six months after applying for refugee status. However, the living expense support program has failed to fulfill its intended purpose in practice. According to the statistics presented earlier, as of December 31, 2022, out of 11,539 refugee applicants in 2022, only 177 received living expense support. This accounts for less than 2% of all refugee applicants, and the duration of support provided averages only about 3-4 months every year. Additionally, many applicants are unaware of the option to apply for living expense support when they apply for refugee status, as there is inadequate information provision and guidance on the support. In a situation where refugee applicants are waiting for an extended period for their RSD procedures, the lack of livelihood support during the first six months, coupled with the inability to obtain work permits, places significant financial strain on them. In a situation where refugee applicants are waiting for a prolonged time for a decision of the determination, the lack of livelihood support during the first six months, coupled with the inability to obtain work permits, places significant financial strain on them. Many refugee applicants resort to seeking assistance from other immigrants in South Korea, relying on insufficient private support, or engaging in unauthorized work to sustain their livelihoods.

3.2. Housing assistance

"The biggest problem was that I had no home. Every time I needed to extend my stay, I had to provide proof of residence, which was difficult for me because I was constantly moving from place to place. I lived in cramped quarters with several other foreigners and sometimes had to rely on friends for a place to stay. There were times when I even had to sleep in subway stations, train stations, bus stops, or parks."

"I stayed at the Korea Immigration Reception Center for about four months. Just recently, my lawyer informed me that there's a record in the immigration system, stating that I got a warning due to some lifestyle issues while I was there. This record was presented as unfavorable evidence in my legal case. I had absolutely no clue that they were keeping an eye on me and documenting everything. It was a shock."

"I found a job through an employment agency, and they also provided me with accommodation. I used the address mentioned in the accommodation contract provided by the employment agency when applying for a visa extension. However, they accused me of submitting a false contract because the address on the contract didn't match the actual address where I was living. They demanded for me to pay a fine of 3 million won. I had no idea that the accommodation contract was false, and I felt unjustly accused. However, I heard that if I didn't pay the fine, I would lose my residency status, so I had to borrow money from others to pay the 3 million won(Refugee L)."

The Ministry of Justice has established and operates the Korea Immigration Reception Center on Yeongjong Island in Incheon, with the purpose of providing housing assistance to refugees. The center can be utilized for a period of up to six months and has a capacity to accommodate 82 individuals, with a total annual capacity of 164 individuals. However, the number of available slots is significantly limited in comparison to the total number of refugee applicants and there is a lack of adequate information provision to refugee applicants like the living expense support system. Consequently, only 2% of all refugee applicants make use of this center on an annual basis. Furthermore, the center focuses on assisting resettlement refugees with their initial settlement, rather than effectively functioning as a housing support system for refugee applicants. Excessive control over them, including permission to go out and a penalty point system, have been identified as problematic aspects of the center's operations. Currently, aside from utilizing this center, refugee applicants have no other options for housing support. This has led to many refugee applicants encountering significant challenges in securing housing. They end up cohabiting with other refugee applicants who have housing, or they seek employment opportunities that offer accommodation in dormitories. Others are compelled to rely on extremely limited private support or, in some unfortunate cases, resort to homelessness. Furthermore, they are required to provide

documents proving their place of residence every time they apply for an extension of stay. However, they face difficulties each time they seek an extension due to the inability to secure stable housing. Occasionally, there are cases where they purchase their addresses through brokers by paying money, and when such activities are discovered, they can face excessive fines, loss of residency status, and even criminal charges.

3.3. Work permit system

"I applied for a work permit, but because I had about a month left on my current stay, I could only get a one-month work permit. Despite that, I still had to fork over 120,000 won in fees, plus an additional 100,000 won to the job placement center. Then, when I applied to extend my stay, I had to pay for the stay extension, and when I extended my work permit, I had to pay fees to the immigration office again. Nobody, neither at the immigration office nor any NGO, ever told me where to look for job opportunities. Every time I renewed my stay, I had to rewrite my employment contract. Initially, my employer helped out, but later on, they were no longer willing to assist(Refugee M)."

Employment is the only means of survival for refugee applicants during the RSD procedures. Despite this, several barriers hinder refugee applicants from securing employment:

1. **No Employment for the First 6 Months:** Initially, refugee applicants are not allowed to work for the first 6 months after applying for refugee status.
2. **Restrictions on Post-6-Month Employment:** After 6 months, they can apply for employment but are only granted a limited form of work permit known as 'activities beyond the given status.' This makes obtaining a regular work permit extremely difficult in practice.
3. **No Residence Status for Some Applicants:** In the case of refugee re-applicants, residence status is not granted, making them ineligible for any form of work permit. As a result, they are unable to seek employment.

Additionally, there are several issues regarding the second barrier above. Refugee applicants are allowed to stay for a maximum of 6 months at a time, and each time their stay period expires, they must apply for an extension. However, work permits for refugee applicants are restricted to the 'stay period,' typically less than the full 6 months. The period for which work permits can be obtained is often too short based on residency status, and the actual duration granted is subject to the discretion of immigration authorities, making it challenging to determine the employment period definitively on employment contracts. Due to these short stay periods, it is difficult for refugee applicants to secure formal employment contracts unless they find employers who truly understand their situation. Furthermore, refugee applicants are required to submit employment contracts and business registration certificates when applying for work permits, even when it's

uncertain whether the permits will be granted. Due to the lengthy administrative processing time, it becomes difficult to predict the date of employment authorization, and in such situations, a 'future' employment contract starting at some point after the authorization must be executed and submitted. Due to the lengthy administrative processing time, it becomes difficult to predict the date of employment authorization, and in such situations, it is required to enter into a 'future' employment contract starting at some point after authorization must be executed and submitted. However, the complex concept and procedure of the permit are not adequately explained in a language that the parties can understand. In many cases, employers fail to understand or cooperate due to the complexity of the permit process. In addition to the fees paid for each extension of a stay permit application, there is a separate fee of 130,000 KRW that must be paid for each work permit application, resulting in a significant financial burden compared to the short duration of work permits.

Due to the backlog in refugee assessments, refugee applicants are often required to wait for 2-3 years. However, there is an issue with the excessively short duration of stay permits, and because work permits are granted within the 'stay period,' it becomes challenging for refugee applicants to obtain work permits. Furthermore, there is a lack of guidance on essential employment-related information and a complete absence of employment support such as job placement and training. Additionally, certain categories of refugee applicants, including refugee re-applicants, are denied residency altogether, entirely blocking them from obtaining work permits. As a result, the majority of refugee applicants find it challenging even to apply for work permits and, in many cases, are forced into precarious labor markets without proper permits.

3.4. Undocumented refugee applicants

"I was studying in South Korea when a civil war broke out in my home country, making it impossible for me to return. My parents urged me not to come back due to the danger, and I applied for refugee status. However, instead of providing me with an ID card, immigration authorities issued a document with my departure deadline. I have to extend this deadline every three months. I can no longer use a phone registered in my name. As I never know when I will receive a call to attend a refugee interview, I had to provide my friend's contact information to immigration authorities."

"The most challenging aspect throughout this process was the issue of money. Without a residence card, finding employment is extremely difficult. I had to take cash-paying jobs to survive, but I always lived in fear of getting caught. People would tell me that what I was doing was illegal, but I didn't want to engage in unlawful activities. I simply had no other choice."

"I was imprisoned in my home country for my political activities and even received a court verdict, but my refugee application was rejected in South Korea. I applied for

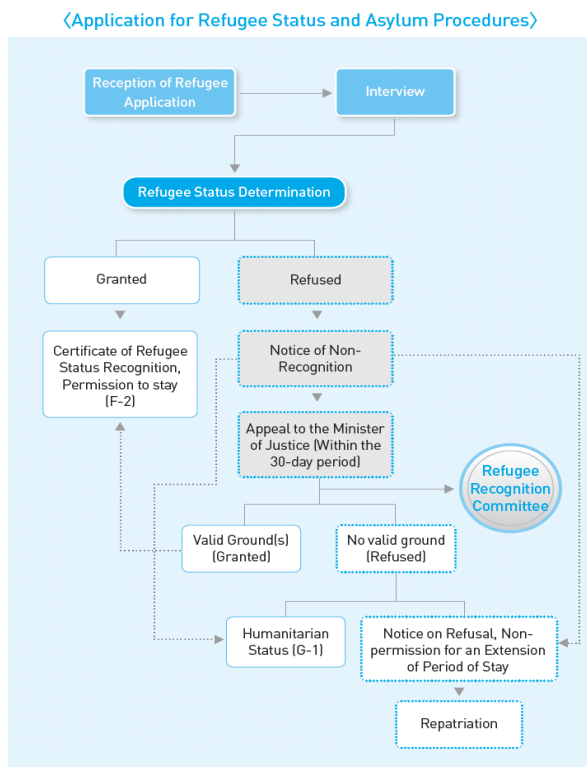
refugee status again because I was unable to return to my home country but immigration authorities issued me a departure order. Furthermore, the departure order had 'no employment allowed' stamped on it. I became unable to work and ran out of money, resorting to sleeping on the streets, in subway stations, and sometimes at the entrances of hospitals. When I was hungry, I would go into fast-food restaurants and pick up leftover burgers that someone had left behind to eat(Refugee N)."

According to its guidance on refugee affairs, the Ministry of Justice issues departure orders in the following cases: 1) individuals who reapply for refugee status, 2) those who have resided in South Korea for more than 1 year and have an impending expiry date of their residence period (within 4 months) and whose departure deadline is deferred after the rejection of their extension of stay, and 3) individuals who apply for refugee status for the first time after their residence period has expired (voluntarily attended the authorities). Due to the strengthening of the Ministry of Justice's policies restricting residence for particular cases, refugee applicants do not receive residence permits, and their passports are confiscated despite being in asylum seeker status. Those without residence permits have no means to prove their identity, making it impossible for them to carry out basic banking transactions, such as transferring or withdrawing funds. They also face difficulties in opening a bank account, obtaining a mobile phone, seeking medical care, purchasing insurance, buying goods, and accessing basic social facilities or services. Additionally, refugee applicants can only engage in employment under the form of 'activities beyond the given status.' Those without residence permits face significant challenges in sustaining their basic livelihoods because they are not permitted to work. Inevitably, when they work without permits, they are unable to secure safe employment, often resorting to night shifts, day labor, and similar jobs, and to get the national four major social insurances. Many of them experience labor exploitation, including the absence of formal employment contracts, unpaid wages, and failure to receive severance pay, placing them in harsh working environments. Throughout this process of depriving them of their basic rights, they lack proper explanations or guidance from immigration authorities.

IV. Institutional Challenges to Promote Refugee Human Rights

1. Refugee applicants under the Refugee Act and RSD procedures

In South Korea, the Refugee Act defines foreign nationals who apply for refugee recognition as 'refugee applicants.' These individuals include 1) The person's refugee status application is being examined under the RSD procedure; 2) The person's refugee status application was rejected or the person's appeal against the denial of refugee status was dismissed, and the filing period for an appeal, administrative appeal or administrative litigation concerning the decision has not expired; or 3) The person's administrative appeal or administrative litigation concerning the denial of refugee status is ongoing. Refugee applicants, like recognized refugees and humanitarian status holders, cannot be forcibly repatriated against their will. Upon submitting a refugee application, the Korean government is obligated to promptly proceed with RSD procedures, including interviews and factual investigations.



The RSD procedure in South Korea proceeds as follows.¹¹ The RSD procedure begins when a foreign national submits a refugee application to the regional immigration offices nationwide. Immigration officers have a duty to actively assist foreign nationals who inquire about or express their intention to apply for refugee recognition. After receiving a refugee application, an interview and factual investigation must be conducted promptly. According to the Refugee Act, decisions regarding refugee recognition must be made within six months from the date of application, with the possibility of extending the period within 6 months in cases of necessity.

¹¹ The Ministry of Justice. (2015, April). Handbook for Recognized Refugees, Humanitarian Status Holders, and Refugee Status Applicants.

<https://www.gov.uk/government/statistical-data-sets/asylum-and-resettlement-datasets>

Under the Refugee Act, the RSD procedures are conducted through individual interviews and factual investigations. If requested by the refugee applicant, interviews must be conducted by officers of the same gender. Professional refugee interpreters must also be of the same gender if requested by the applicant. The RSD officers are obliged to record the details in a refugee interview report and to read out or disclose the contents of the refugee interview report recorded to the applicant after the interview and inquire whether any error exists. If the applicant requests additions, deletions, or changes to the contents, the requested information must be added to the original record. Refugee applicants have the right to access and copy the materials they have submitted, as well as their refugee interview report and immigration officers must promptly comply with such requests. The Refugee Act establishes the right to legal representation and allows for the presence of a trusted individual during the interview. Furthermore, when requested by the refugee applicant, the recording or videotaping of the interview process is mandatory. If the interview process has been recorded or videotaped, the refugee applicant has the right to request access to the recorded materials for review as needed.

2. Overview of refugee rights situation

In the Korean Refugee Act, detailed provisions concerning the RSD procedures and some regulations regarding the rights of refugee applicants have been established. However, South Korea's RSD system has been consistently criticized for various shortcomings and issues.

One of the most prominent issues highlighted in this report is the extremely low refugee recognition rate in South Korea. When compared to the 2021 EU average refugee recognition rate of 35%, South Korea's recognition rate has remained alarmingly low, recording 0.4% in 2020, 1% in 2021, and 2.03% in 2022.

Furthermore, as evident from previous cases, the assurance of procedural rights during the RSD procedure remains inadequate. It is challenging for refugee applicants to receive assistance during the RSD procedures. Translation and interpretation services are not consistently provided during the application process, and essential documents such as the Refugee Interview Report and the Notice on Non-Recognition of Refugee Status are still provided only in Korean. Although video recording of refugee interviews has become mandatory, the failure to provide these recordings undermines the transparency of the process and infringes on the defense rights of the refugee applicants. The number of RSD officers responsible for refugee recognition reviews is critically insufficient, and the refugee officers find it difficult to acquire the necessary expertise. Refugee-specific roles in the immigration office are generally temporary, and the process for recruiting officials with expertise in refugee matters is limited and temporary. In practice, the refugee officers responsible for refugee recognition reviews rotate through various immigration tasks, and their involvement in refugee affairs is temporary. The process of recruiting officials with expertise in

refugee affairs is limited and temporary, and the training course does not seem sufficient to develop the required expertise. As a result, many refugee recognition assessments often consist primarily of formal interviews, lacking comprehensive factual investigations. Additionally, there is a shortage of professional refugee interpreters specialized in minority languages, and there is a lack of comprehensive technical and ethical training for professional refugee interpreters.

While there have been efforts to improve the refugee appeal process, conducting thorough and professional reviews remains challenging in ad-hoc Refugee Committees. Refugee applicants often find it difficult to have the opportunity to submit substantial supporting evidence with assistance in this process or attend hearings before the Refugee Committees. After the appeals process, the subsequent proceedings are not publicly disclosed, leaving refugee applicants unaware of the progress of their case. They often wait for an extended period only to receive a notice of their appeal being rejected. Although it is possible to file a lawsuit against a non-recognition decision in court, the burden of excessive litigation costs, limited access to legal representation, and the absence of translation services for essential documents (Notice on Correction Order, Notice on Date for Pleading, Judgment, etc.) during the trial process pose significant challenges.

Additionally, while refugee applicants are categorized as temporary residents awaiting asylum process, structural issues prevent them from swiftly obtaining refugee status in South Korea. Due to the backlog in the RSD process, many refugee applicants reside in South Korean society for an extended period, far longer than what can be considered temporary. As of December 31, 2022, the number of pending applications under review is 11,063, and the number of applications pending after an appeal is 4,888. The average processing time, including the waiting period for refugee determination, was 23.9 months in 2021 and 20.8 months in 2022. In some cases, individuals had to wait for as long as 4 years and 8 months (56 months) to receive their initial decision on refugee status, which represents the longest waiting period. Despite the need for a support system to sustain the livelihood of refugee applicants during the waiting period, the provisions in the Refugee Act for the treatment and support of refugee applicants have been limited to regulations and have not effectively protected the livelihood of refugee applicants. In practice, many refugee applicants do not receive essential support such as financial assistance, housing support, or medical care. Consequently, most refugee applicants either endure dire living conditions or rely on a small number of churches, NGOs, and the charity of for survival.

Under the current refugee system in South Korea, which requires improvement, a significant number of refugee applicants who have arrived in South Korea over the past decade have been deported without even having the opportunity for the RSD. Those who did undergo the RSD procedure often faced inadequate assessment and human rights violations within the process, all while enduring harsh living conditions. Legislative and policy improvements are urgently needed to address these issues. Despite this, there have been numerous amendments to the Refugee Act since 2018 that have severely restricted the rights of refugee applicants. Additionally, the Ministry

of Justice proposed a partial amendment to the Refugee Act on December 17, 2021, with the central focus being the introduction of an "RSD Disqualification System," which has been criticized for undermining the aspect of ensuring fair and thorough RSD procedure.

3. Institutional challenges for refugee rights advancement

Based on these concerns, this report presents the following institutional challenges:

- It is imperative to recognize refugee status promptly and accurately for those who are qualified as refugees under the Refugee Convention and to increase the overall refugee acceptance rate. To achieve this, fair and thorough the RSD should take place, and the basic rights of refugee applicants must be ensured throughout the RSD procedure. Continuous improvements in the RSD system should be pursued. Additionally, efforts should be made to increase the execution rate of the refugee budget and secure additional funds for future budgets to enhance the human and material resources for the RSD process. Basic treatment must be consistently guaranteed for refugee applicants during the RSD process.
- The provision of information, interpretation, and legal assistance to refugee applicants and the guarantee of procedural rights in the RSD procedure should be strengthened. In light of the number of refugee applications, the number of personnel in charge of the RSD should be increased from now on, and the accountability of the RSD should be ensured by recruiting the RSD officers as stipulated in the Refugee Act. Establishing legal and institutional mechanisms to assess the qualifications, professionalism, and ethics of first-instance RSD officers is necessary. The education program to enhance the capabilities of refugee officers should also be further strengthened both quantitatively and qualitatively. To enhance the transparency of the RSD assessments, refugee interview video recordings, as well as RSD reports, should be made publicly available. Efficient and expedited RSD procedure should be ensured through an approach that increases the human and material resources for the RSD and enhances expertise through training, rather than limiting opportunities for refugee applications.
- To ensure the promptness, transparency, and fairness of the refugee appeal process, it is essential to establish the Refugee Committee with expertise, independence, sufficient staffing, and budget to effectively assess and decide on appeals. During the appeal process, refugee applicants should be provided with interpretation services, procedural information, and legal assistance, and opportunities for interviews and hearings must be guaranteed. The procedure for refugee applications at ports of entry should be improved by referring cases to the RSD procedure, except in clearly unfounded asylum claims. A swift and independent appeals system should be established for decisions of non-referral, with guarantees of

adequate treatment during that period, and various non-custodial alternatives should be explored.

- Refugee applicants should be guaranteed stable residence without the risk of compulsory repatriation or detention during the RSD procedure. The refugee budget, including treatment, should be expanded overall, and when operating systems and programs related to treatment, there is a need for active discussions to increase the roles of social welfare service agencies with expertise and the involvement of local governments. These discussions are crucial for establishing a support system for refugees. Work permits should be fully expanded to allow refugee applicants to support themselves by changing the system that prevents them from working for six months after applying for refugee status. Additionally, considering the difficulty refugee applicants face in finding employment, it may be necessary to make livelihood support mandatory for socially vulnerable groups. Adequate housing support should be provided during the RSD procedures. The Korea Immigration Reception Center should be utilized, and simultaneously, cooperation with local governments should be strengthened to secure medical and shelter resources. These centers should also function as information hubs, providing education, counseling, and support for the initial adaptation to Korean society for all refugee applicants. Access to healthcare should be guaranteed, and educational opportunities should be provided without any gaps. Furthermore, considering the prolonged RSD procedures, the right to family reunification should be expanded for refugee applicants to live together with family members.

V. Conclusion: 10 Recommendations for improvement of RSD system

NANCEN has dedicated a significant amount of time to the preparation of this report. Seul Lee, a researcher, played a pivotal role in organizing the data for this report, starting from the process of requesting information disclosure related to refugee statistics and the Ministry of Justice's financial report. She devoted nearly a year to the tasks of sorting, reclassifying, and comparing the available information. Activists Hyunjoo Lee and Youngran Choi contributed to the report by gathering specific cases and details related to refugee rights through consultations with refugees. They also collaborated on revising and enhancing the content of Part 3. Jinkyung Kang, another activist, meticulously proofread the entire report and provided valuable input on the section proposing a livelihood support program that aligns with the life situations of refugees. Activists Kyungjoo Park and Yeonjoo Kim, respectively, drafted Part 1, 2, and Part 3, 4, and 5 of the report. Lastly, Daeun Lee, a researcher, undertook the translation of the report from Korean to English.

This report was written by current NANCEN activists, but the observations and explanations in this report are based on the shared legacy of words, writings, actions, and existence of many individuals - numerous NANCEN activists who have paved the way since 2009; fellow activists from other organizations who have explained the meaning of solidarity; and refugees who, despite discrimination and exclusion in Korean society, have taken responsibility for their lives and communities. In conclusion, we express our deep gratitude.

This report contains both quantitative and qualitative evidence of the South Korean government's shortcomings in faithfully upholding its commitments to refugee protection and rights, which were publicly declared through the 1990s Refugee Convention and the 2013 Refugee Act. We hope that the observations and explanations in this report will be earnestly considered across various sectors of Korean society, ultimately playing a small yet meaningful role in guiding South Korea's refugee system toward faithful and fair RSD procedure and the protection of the rights of refugee applicants.

In concluding this report, as a coalition of our members, donors, fellow refugees, the Board of Directors (including our representatives, board members, and auditors), and the Secretariat of NANCEN, we make the following recommendations to South Korean government for improving the human rights situation of refugees in South Korea.

1. The refugee recognition rate must be increased to meet international standards, and a greater commitment to refugee protection is required.
2. The expertise, fairness, and efficiency in the RSD must be enhanced, and procedural rights during the refugee application process should be ensured.

3. Legal assistance and interpretation support must be provided during the process of preparing and submitting refugee applications. Refugee applications should be allowed to be written in the language that the applicant is most comfortable with, and the submission of evidence in languages other than Korean or English should be ensured.
4. Translation of basic documents such as the refugee interview record, notice on non-recognition of refugees status, and its statement of reasons must be provided.
5. Copies of video recordings of refugee interviews should be provided, and RSD assessment reports should be made publicly available.
6. The number of the RSD officers should be increased, and the accountability of refugee assessment should be strengthened. Legal and institutional mechanisms should be established to verify the qualifications, expertise, and ethical standards of refugee officers.
7. Professional refugee interpreters in various minority languages should be secured, and the professionalism and neutrality of interpretation must be ensured. Educational programs to enhance the competence of professional refugee interpreters should be strengthened.
8. The appeal process must be substantiated and made transparent to refugee applicants. Procedural rights, such as the right to make statements, should be strengthened.
9. Stable residency should be guaranteed during the period of the RSD procedure without the risk of forced repatriation or detention. Policies restricting the stay of refugee reapplicants and others should be abolished, and the rights to stay and survive must be ensured.
10. Employment opportunities should be significantly expanded, even within six months after the refugee application. For those who have difficulty securing their livelihoods, the provision of living expenses should be made mandatory. Basic amenities such as housing and healthcare should be guaranteed during the RSD procedure. Efforts should be made to increase the execution rate of the refugee welfare budget and allocate more funds for refugee assistance.