

A Tale of Three Cities

Korean Immigration Law and Korean Immigration Service Procedures

I arrived in Seoul, Korea on 17 June 2009. By 8 September 2009 it was clear that my future with my Korean employer was in jeopardy.¹ We were unable to agree about the quality of training that my students were to receive and the number and nature of the students that I would train. For my employer, each new student above an established minimum number represented a source of windfall profit. As a business, my employer was concerned about above cost revenue; as a teacher I was concerned about the quality of training received by my students. Teaching English (EFL/ESL) and teaching how to teach English (TESOL) are not the same, and the overwhelming majority of students who had entered my third round of classes were there to enhance their own English skills -- not those of others. What my school was advertising as course content, and what I was instructed to teach did not match. Moreover, the language proficiency levels of several of new students was inferior to anything that I was prepared to pass onto Korean second language learners. I stood my ground and was told to vacate my post.

Unable to reach proper settlement so that employer and employee could appear amicably and together before the Immigration Service we appeared separately.² I appeared on September 29th at the Immigration Office (*Omokyo* Station) with me a packet of incriminating documentation and was asked to present my case through two holes in a protective glass barrier probably designed to protect the officers on the other side from physical attack and disease. When I hesitated and insisted on an open table, because the complexity of the case and documentation required it, the officer took offense. After many embarrassing minutes of polite dispute, I asked to speak with the office manager. Although I was not permitted to speak directly with him, I was able to show the manager my thick packet of documents. At the manager's direction the reluctant officer and I proceeded to the Investigative Division on another floor of the Immigration Office where I was provided with a table and a translator. When my presentation was complete I was told to submit a handwritten report and wait for a reply. As I was leaving the building I received a telephone call asking to report again to the first floor. I complied, was asked to present my passport for a second time, and watched as my one-year work visa was stamped USED and voided.

A date was written on the back of my Korean I.D. card, and I was told to return to the Immigration Office in 10 days. When I explained to them that I had visited the Daejeon Labor Commission to consider what further action I could take in regard to my previous employer I was told to bring the following documents upon my return in 10 days:³

1. a copy of the letter that I submitted to the Labor Commission
2. certification that my employer did not compensate me properly
3. a letter of reference from a Korean sponsor, and
4. a revenue stamp worth KRW50,000

¹ It was on this date that I received an email telling me to stop reporting for work.

² Was my effective employer seeking to avoid the embarrassment of having to explain why my *contractual* and *effective* employers were not the same, and why my effective employer had not applied for my visa under its own name. To this day I am not clear about the cause and ramifications of my employers' embarrassment. I had merely sensed that something was amiss and took good advantage of it in order to compel either or both to compensate me for my losses.

As I knew that my employer was in communication with the Immigration Service, and I was afraid that it would base its own report based upon what I reported, I waited until after my employer filed its report before I filed mine. Besides, it was they who had initiated the termination procedure.

³ I was told that these document were required in order to obtain a G1 visa -- a special visa status that would permit me to pursue my case at the Labor Commission.

Thus began a long series of unexpected surprises that lasted nearly two months.

With the exception of my letter to the Labor Commission and the KRW50,000 revenue stamp I could not envision myself meeting the Immigration Office's requirements. As I had only lived in Korean for three months and knew only what little Korean I could acquire in this brief period with a full work schedule and other outstanding work projects of a more private sort, obtaining a Korean sponsor who would not be a new employer was very unlikely. In any case, an important goal of the Labor Commission is to reunite workers with their former employers -- not separate them. Finding a new employer went against what I was trying to achieve at the Labor Commission.

I returned home, wrote the four-page hand-written report, and faxed it to the Immigration Office before the week's end. On October 10th I returned to the Investigative Division of the Immigration Office and was told that I had broken the law. Indeed, the Immigration Service had discovered in the documentation that I provided them that my employer was in fact two, and that one of them had broken the law by not reporting to the Immigration Service that I was teaching in a location different from the one that was registered with the Immigration Service under my contract with the other. In effect, I was being punished for having followed my effective employer's directive. My employer was apparently fined the maximum penalty of KRW4,000,000, and I was told to pay KRW1,000,000 -- the minimum I could be fined for my apparent transgression.⁴ My situation was already difficult, and it had just been made worse. So, I dutifully reported to the first floor in anticipation of my next surprise.

As I did not have Items 2 and 3 mentioned above, I was told that I could apply for a change of status of sojourn, did so, and was given two more weeks of legally approved residency. I was also provided with a new list of documents, that would be needed, if I still wished to obtain a G1 visa in order to pursue my case at the Labor Commission. Although the new list was similar to the first, it was not the same. This time, I was also told that were I to obtain a G1 visa that I would be unemployable in Korea. Since my arrival I had barely received 60% of what I was promised, and the Immigration Service had just fined me KRW1,000,000. I was then told to find a new employer. And, abandon my case before the Labor Commission? Also, what kind of employment does one find in any country in two weeks, whether one speaks the host country's language, or not. I was then told to make my life easy, go to Japan, and return to Korea as a tourist. When I told them that I was not a tourist and asked what bearing a tourist visa would have on my case before the Labor Commission, they fell silent. I then explained to them that the Labor Commission had not yet decided where my case should be processed -- in Seoul or Daejeon. Had I thought about returning home? I left with my change of status of sojourn in hand, the new list of requisite documents, and much concern about my next step.

When I returned to Daejeon I contacted an employment agent and pursued my case with the Labor Commission. Who could imagine what the future would bring? After two weeks I returned to the Investigative Division of the Immigration Office and paid my fine. I then returned to the first floor with proof of payment and a stamped letter from the Labor Commission. When I asked, if I were now eligible for a G1 visa, they asked, if I had not found a Korean sponsor. I explained to them that I had initiated the process and showed them several letters of application including my letter of introduction to the Daejeon employment agent. I was then escorted back to the 6th floor where I was issued an exit order and told to leave the country within 30 days. When I asked, if I would be able to return, they said, yes. When I asked what would happen, if I did not leave within the 30-day period, they said I would be arrested and deported -- never to return. And, if I were to find a new employer? Still you must leave and come back. Apparently I was not yet a *persona non-grata* -- just a troubled foreigner who had failed to find a new sponsor.

On November 13th I went with a newly found employer to the Daejeon Immigration Service, and my employer was told that no visa would be forthcoming. The reason given was that I had broken Korean Immigration law.

⁴ The fact that I had worked for one employer under the contract of another employer and had unknowingly been paid by both did not appear to concern the Immigration Office. Was it important that the unpunished and contractually responsible party of my two employers was a major Korean newspaper? Other seemingly foul play on the part of my two employers was apparently par for the course and not a matter of concern for this particular branch of the Korean Justice Department.

Me: Excuse me? Had I not dutifully paid my fine for a crime that I had not knowingly committed? Had I not followed my previous employer's instructions? If it had not been for me, would your office have even caught the deviant Korean company in violation of the law.

Immigration: Sorry, according to our records you broke the law, you may not return to work in Korea for at least one year.

Me: One year? Why was I not told this in Seoul when I paid my fine and told that I could come back with employment, if only I would leave in 30 days?

New Employer: There is nothing more we can do.

On November 17th I made my fourth trip to the Seoul Immigration Service (*Omokyo* Station). It was shortly before lunch, I drew my number and when it came up I proceeded to the counter where the same person who had refused me a table 49 days earlier was seated. She told me that she was going to lunch and would not return. When I returned from lunch she was there and I presented my number. She refused to accept it, I was told to draw again, and she disappeared. My Korean language text books kept me active company while I waited for a second time. When my number was called I met with the officer that had authorized my change in sojourn on October 10th, and he told me that he did not have the power to change anything in my record. I asked to speak with his supervisor and was escorted by his supervisor to the 6th floor after being literally shoved into the elevator. Upon my arrival I was asked by the same officer who handled my case why I had come to see him, and I pointed to the Supervisor who had just left. I was then told again that no adjustment to my record could be made and that I should go. The only place that remained was the Visa Section on the third floor. So, I went there and made my second face-to-face contact in six weeks with someone who worked for the Seoul Immigration Office and enjoyed good bilingual fluency. I explained to her my dilemma and asked her, if she would not inquire on my behalf about the one-year rule that I had been told about in Daejeon. She spoke with the Immigration Officer on the 6th floor who had just refused me and returned with the following:

Immigration: Yes, it is optional, but you will likely have to return to the United States to obtain your new visa should a number be issued.

Me: Return to the United States? For what reason? Japan is much closer. Why should the Korean government care in what country the visa is issued? The permission to issue originates in Korea, and I have not left Korea since arriving from the United States in June? My status in the US will not have changed, many foreigners who are not from Japan renew their visas in Japan anyway, and all of the required documentation has been prepared

Immigration: It is up to the consulate office in the country where you apply.

Me: Many thanks. You have been a great help. Should I need you again, how may I contact you?

Immigration: Please call 1345.⁵

On November 19th I reported to the Daejeon Labor Commission where I was presented KRW3,000,000 as compensation for my withdrawing my case of alleged unfair dismissal. With [payment and associated documents](#)

⁵ This number serves as a buffer between foreign residents and the Korean Immigration Office. The reliability of the information that it provides is questionable as different information can be obtained from different receptionists. The receptionist can permit or deny access to known Immigration Officers depending on the officer's willingness to speak. In order to gain access to the receptionist you are asked to provide your Korean ID number.

in hand I jumped into a taxi and got out at the Daejeon Immigration Office. Upon presentation of the documents I asked the Visa Section to call Seoul.

The Daejeon Office agreed to approve the issuance of a new E2-Visa, and on the following day my employer and I returned to the Office with full documentation in hand. My employer and I had been through a lot together, and I had not even begun work. Nevertheless, I had redeemed myself at the Labor Commission and proven by bureaucratic mettle with the Korean Immigration Service. My new employer was confident that I would succeed in his employ.

On, Sunday, November 22nd I left Daejeon for Pusan, presented my exit order, and took a ferry to Fukuoka, where I waited for my new employer to send me my visa issuance number. It was received late Wednesday afternoon, and I was scheduled to begin work on the following Monday. Early Thursday morning I filed my application with the Korean Consulate in Fukuoka and was told that I must return to the United States in order to obtain it. When I asked why they could not issue it in Japan, they told me that I had broken Korean Immigration Law. Prepared for this event I presented them proof of payment of my fine, and my documentation from the Korean Labor Commission. The Vice Consul was impressed, but knew of no exception to the rule. I thanked the Vice Consul for reviewing my case, left the office, and called my employer. I asked him to contact the Daejeon Immigration Office and find out what had happened to the notion of consular discretion. While waiting for his reply I also contacted the Korean consulates in Tokyo, Osaka, and Hiroshima who all referred to the Fukuoka office and responded with the same directive: return to the United States. When I called Seoul I was told that my new contact in Visa Section on the 3rd floor was in training for two weeks and would not return until December 13th -- my birthday.⁶ When I explained that it was an emergency I was told that no one was available. My employer informed me that the Daejeon Immigration Office would not and could not call the Consulate in Fukuoka. My new employer was either unwilling or unable to establish contact with the Seoul office.

As my contract with my new employer was only for three months, and the cheapest flight to the United States that would have permitted a timely issuance of my new visa would have cost one-half of my expected earnings I forewent the flight and returned to Korea as an unemployed tourist for a Sunday employment interview in Jeonju.

Suggestions for Improvement

Korea is the sixth country in which I have lived and worked or studied as a foreign resident. During these overseas sojourns I have acquired good to excellent mastery of three languages in addition to English and partial knowledge of several more. My acquisition of foreign culture is equally broad and profound. The Republic of Korea is my third country in East Asia. Obviously, I am still new to Korea and have likely made many a *faux pas* during the aforementioned bureaucratic journey. On the other hand, nearly all of my interaction with the Korean Immigration Service has been with people whose profession it is to deal with foreign residents in Korea. No, I have not told you the whole story, for it would take nothing short of a book to do so properly. I have, however, made important mention of each crucial event that took place between the Korean Immigration Service and me and have further tried to provide you with some sense of the reigning attitudes expressed on either side of the negotiation. Important is that I came to Korea as a lawful guest in order to help Korea improve its ability to reach across cultures and peoples different from its own. It is in this spirit that I would like to make the following suggestions:

CROSS CULTURAL COMMUNICATION: The Korean Immigration Service needs to improve its bilingual expertise and cross-cultural communication skills.

⁶ I called the Seoul Immigration Office on my birthday and was told that my contact had been transferred to a new department. When I asked what department, I was told that no one knew. When I asked, if someone could not find out, I was told that no one was in the office. The Visa Section of the Seoul Office is large with many workers, and I called in the middle of the afternoon.

At one point I was told by an Immigration Officer that no one in her office liked me. This comment was likely made in her personal self-defense when she discovered that her routine responses were inadequate replies for my well-posed procedural questions that she found difficult to answer. It may well be that she found me difficult to manipulate, but who had given her the right to speak on behalf of her entire office?

Throughout the 55-day ordeal I was frequently reminded by Immigration personnel that I had been fired. Were they seeking to dissuade me from ever reporting criminal behavior to the office again? Were they holding me responsible for my employers own despicable behavior? Had no Korean worker ever been fired by a Korean employer for standing up for what he believed to be right? Was it that foreign workers and Korean workers are treated differently before the law? Or, was it that I am a guest in Korea, largely uninformed about Korean society, and thus naturally at fault.

This reminder invariably appeared whenever I questioned a procedural matter that would impact my life in a considerable way. In fact, it was not until I could prove that my effective employer had paid me to withdraw my case before the Daejeon Labor Commission that the Seoul Immigration finally believed that maybe I was not to blame -- this despite their having fined one of them for breaking the law.

NEED FOR AN OMBUDSMAN OR BILINGUAL SUPERVISORS: Either the Seoul Immigration Office (*Omokyo*) should hire a first floor supervisor who is fully bilingual, or it should hire a bilingual ombudsmen to field foreign resident complaints and questions.

When there is trouble at the counter the first-floor supervisor does not speak to the foreign applicant directly; rather, he speaks in Korean to the Immigration Officer handling the foreign resident's case. In effect, the foreign resident's side of things is always interpreted through a counter person whose bilingual ability is often in itself questionable. Unless the foreign resident can understand Korean, he has no access to the counter person's supervisor, and no way to appeal his grievances or failed understanding through a *neutral* third-party. In the absence of direct communication between the supervisor and those whom his office is suppose to serve all decisions made by the supervisor are biased in favor of his employees who enjoy full control of the information that their supervisor receives.

INTERPRETATION AND ENFORCEMENT OF KOREAN IMMIGRATION LAW: Korean Immigration Law must be made clear, accessible, and complete so that foreign residents must not depend on rapacious legal attorneys to find simple remedies for common causes.

The Korean Immigration Service's website could not answer my questions about the discretionary powers of the Korean Immigration Service with regard to punishment, and to this day the only copy of Article 21-1 that I have seen was written in Korean -- this, despite numerous attempts to find a copy in English, French, or Japanese. My Korean sponsor who is supposed to help me with these sorts of matters was my Korean employer who broke the law. In short, the majority of Korean sponsors -- namely, Korean employers -- suffer from an important conflict of interest when it comes to helping their guest workers.

When I called the US Embassy in Seoul and asked them to right a letter that would encourage the Korean Immigration Service to reconsider my alleged crime, I was told that the US government generally does not interfere with Korean immigration matters. I was then given a long list of attorneys at my request and wished the best of luck. Would it be wrong to assume that other national governments have similar reciprocal policies of non-intervention, as well?

If a nation's laws are to be respected by its foreign residents, then they must be clear, accessible, and complete to all concerned, and they need to be written in a language that foreign residents can understand. My new employer told me that I should not have paid the fine, because it was an automatic admission of guilt. Who was I to claim innocence with regard to a law that I could not even read? Moreover, ignorance of the law is rarely a good excuse for breaking it. I paid the fine in a spirit of cooperation from a position of grave weakness. My goal was to remain in Korea -- not fight with the Immigration Service.

The biggest shortcoming in this regard was the absence of completeness and the ambiguousness of interpretation of both the law and its consequences. Daejeon and Seoul did not agree with regard to the imposition or non-imposition of the one-year penalty until I interceded, and I left Korea in the belief that where I received my visa was at the discretion of the overseas consulate where I applied. I would not have gone to Japan and waited for five days had I known that the only place that I could possibly receive my visa would be in the United States.

INTER-MINISTERIAL COORDINATION WITH REGARD TO THE EMPLOYMENT OF FOREIGN WORKERS: In order to protect foreign workers against ill-intentioned Korean employers foreign workers should be informed of their labor rights when they report to the Immigration Service upon termination of their employment. Moreover, they should be given time to present themselves before the Labor Commission before their E2-Visa is stamped USED.

Midway through my case at the Daejeon Labor Commission I was informed that my application was invalid, but that the office would still make an effort to help me reach a settlement that did not require a formal decision by the Commission. The reason for the invalidation had to do with the fact that my work visa had been cancelled by the Immigration Service before my formal application had been officially submitted to the Labor Commission. It is sheer luck that my case was ever processed by the Labor Commission: firstly, I initiated my case informally at the Daejeon Labor Commission before I appeared at the Immigration Service on September 29th; secondly, confusion at the Labor Commission about whether my case should be processed and heard in Seoul or Daejeon caused the Commission to overlook the fact that my work visa had already been cancelled when the formal application was finally authorized.

Not only was I unaware that my visa status was important when I initiated my case at the Labor Commission, but I was led to believe by the Immigration Office that I would be covered by the G1 visa. Even, if the G1 visa is sufficient, and I truly do not know, I could never have obtained the visa without a Korean sponsor.

PROVIDING FULL INFORMATION WITH REGARD TO VITAL SERVICES TIED TO ONE'S VISA STATUS: When I returned from Japan as a tourist and tried to obtain an internet connection I was initially denied. When I asked why, I was told that my Korean I.D. number had been rejected and should clear the matter up with the Immigration Office. When I appeared at the Daejeon Immigration Office my card was examined and confiscated, and I was told that I should have surrendered the card when I left Korea for Japan. No one asked me for my card when I showed my exit order at the border, and no one in Seoul told me that I should surrender it on my departure.

Several days later when I went to visit my Korean physician for a check-up and subscription renewal I learned that my Korean medical insurance had also been cancelled. Knowing that my Korean I.D. card had been invalidated prepared me for this revelation; it did not prepare me, however, for the fact that my Korean insurance had already been cancelled in the moment that my employer reported my termination to the Korean Immigration Office -- on September 15th or thereabouts. In short, I had been living for the past two months with no insurance coverage and did not know it.

Shortly after I was told to vacate my post my employer recommended that I abandon my residence in Daejeon and return to Seoul where I would be provided with a different residence. When I asked if my employer would pay for the moving and transportation costs, I was told to pay my own way. Already highly distrustful of my employer's broken promises and heavy-handed negotiating tactics, and knowing that the Daejeon Labor Commission would be the likely commission to process my case, I remained in Daejeon completely unaware of my rights with regard to my current residence. I called around asking people about my rights, but my inability to speak Korean, and my reluctance to jeopardize my relationship with the few Koreans who I knew, deterred me from truly finding out. As both the Korean Immigration Service and the Daejeon Labor Commission informed me that matters of housing were outside of their jurisdiction, there was a lot of guess work.

What followed was repeated harassment from the director of the school on whose premise I had carried out my work on behalf of my contracted employer. At one point, I was so frightened that I invited the police department into my apartment so as to avoid a potential physical confrontation between me, the school director, and his staff. The police department called my employer in Seoul and spoke with him for nearly half an hour in Korean.

At the end of the conversation I was told to settle with the school director in DaeJeon. I subsequently invited him to a coffee in a nearby coffee house and within five minutes concluded that nothing positive would come of the discussion. As my case before the Labor Commission now included the school director in whose apartment I was apparently living, and my contract with my Seoul employer promised paid lodging, I was beginning to feel more secure with my situation. Although the harassment did not end; it did abate, and I am now the lawful tenant. This very agonizing experience could probably have been avoided had I known my rights under Korean law with regard to my residence.

Though every contract is not the same, it is difficult for me to imagine that housing and insurance guarantees are not a part of the vast majority of contracts approved by the Immigration Service before issuing visa numbers to employers and their respective employees. Could the Immigration Office not at least provide some guidance with regard to these matters upon separation?