Korea Focus

Refuge Beyond Recognition: Institutional Design and the Lived Effects of Asylum Law in Germany and South Korea

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Refuge Beyond Recognition:
Institutional Design and the Lived Effects of Asylum Law in Germany and South Korea

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1. Introduction: Refugee Issues in Germany and South Korea

While studying migration in Germany and living in Berlin, it has been inevitable to witness refugee-related topics and the presence of refugees. The striking example of this presence is the refugee camps in the former Tempelhof Airport, which has been used as a recreational area for residents in Berlin since 2010. It is easy to see Berliners gathering in the park and freely enjoying a variety of activities, while refugees coexist with them, living in container-accommodations in the middle of the former airport site. It is also inevitable to encounter people from Syria, Ukraine and other countries who hold refugee status, as I myself have experienced on many occasions.

As I started talking with a colleague who studies Myanmar refugees in Korea, I noticed a striking disparity: despite both countries being signatories to the 1951 Refugee Convention and its 1967 Protocol, and both having established domestic refugee laws, Germany and South Korea offer profoundly different levels of protection to asylum seekers. I became interested in why such divergence occurs—not only in refugee recognition rates but also in how refugees are permitted to live, work, and integrate into society.

Germany and South Korea both legally recognize the right to asylum. Germany entrenched the right in its Basic Law and developed a sophisticated, bureaucratically distinct refugee system over decades. South Korea passed the first standalone Refugee Act in Asia in 2013, gaining international praise at the time. Yet, the outcomes could not be more different between the two countries. In 2024, South Korea's refugee recognition rate was only 1.9%, one of the lowest among OECD countries, while Germany continued to grant protection at significantly higher rates. Moreover, recognized refugees in Germany typically receive access to housing, employment, and social services, while those in Korea often face bureaucratic exclusion, precarity, or are granted only a form of symbolic "humanitarian stay" without meaningful rights.

This working paper seeks to examine the structural causes of these differences by focusing on how legal and institutional designs shape the scope and delivery of refugee protection. It takes seriously the idea that laws are not merely texts but are historically constructed and reformed by governance, and that policy ambiguity can be a strategic form of exclusion. Drawing on previous research, policy reports, and institutional documents, I explore how the discretion embedded in South Korea's Refugee Act contrasts with the relatively codified structure of German asylum law—and how these legal differences materialize in everyday outcomes for refugees.

The central research question is: How does the legal and institutional design of refugee protection systems affect recognition rates and the scope of refugee rights? To address this question, the paper compares Germany and South Korea through a multidimensional institutional lens. It examines their legal frameworks, the degree of procedural clarity versus

discretion in status determination, the structure and mandate of implementing institutions, and the resulting implications for the rights of asylum seekers.

Through this comparison, I argue that legal ambiguity and centralized discretion in South Korea's asylum regime function as tools of exclusion, in contrast to Germany's more rule-bound, multi-agency approach that tends to facilitate protection. This paper contributes to broader debates on how refugee rights are structured not just by humanitarian norms, but by the institutional architectures through which those norms are interpreted, operationalized and enforced.

2. Conceptual Framework and Legal Definitions
2.1 Defining Refugee Status: Legal Concepts and National Variations

Under the 1951 United Nations Refugee Convention, a refugee is defined as a person who, "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion," is outside their country of origin and unable or unwilling to return. An asylum seeker is someone who has fled their home country and is applying for refugee status but has not yet received legal recognition. While not all asylum seekers are ultimately recognized as refugees, states are obligated under international law to fairly assess their claims and to uphold the principle of non-refoulement— the prohibition against forcibly returning a person to a country where they may face persecution. This principle, once treaty-based, is now considered customary international law. The Refugee Convention also guarantees recognized refugees access to national courts, the right to employment, education, and equal treatment in key areas of social and economic life. However, how these obligations are interpreted and implemented differs across states, which has led to variation in the proportion of recognized refugees and the use of other humanitarian protections when asylum seekers enter a state's territory. Thus, it is important to compare how those relevant legal systems are shaped in each country.

2.2 Germany's Asylum Protection System

Germany employs an elaborate protection system within its asylum law, which distinguishes between several legal statuses. Under German asylum law, the term *Flüchtling*(refugee) refers to individuals who have been formally recognized as refugees in accordance with the criteria set out in the 1951 Geneva Convention and who are granted *Flüchtlingseigenschaft* (refugee status) following the asylum procedure.[1]

In public and political discourse, however, the term *Flüchtling* is often used more broadly as an umbrella term encompassing asylum seekers and other persons seeking protection. The alternative term *Geflüchtete/-r* (also referring to refugees) has emerged primarily in social and political debates—particularly in the context of gender-inclusive language and efforts to avoid the potentially diminutive connotations of the suffix "-ling"—but it does not constitute a legally defined status within German asylum law and has itself become the subject of contestation.

For individuals who do not qualify for Convention refugee status but nonetheless face serious harm upon return to their country of origin, Germany provides subsidiary protection (*Subsidiärer Schutz*).[2] This status applies to persons who can demonstrate a real risk of serious harm, including the death penalty or execution, torture or inhuman or degrading treatment or

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[1] https://www.bamf.de/DE/Themen/AsylFluechtlingsschutz/AblaufAsylverfahrens/Schutzformen/schutzformen-node.html (Retrieved: 2025.7.16)
[2] https://www.bamf.de/DE/Themen/AsylFluechtlingsschutz/AblaufAsylverfahrens/Schutzformen/schutzformen-node.html (Retrieved: 2025.7.16)

punishment, or serious and individual threats to life or physical integrity resulting from indiscriminate violence in situations of armed conflict. [3]

The German Federal Office for Migration and Refugees (BAMF), which is the administrative authority responsible for implementing asylum law, classifies individuals seeking protection into several distinct categories beyond just refugees and recipients of subsidiary protection. These include:

- Persons seeking asylum (Asylsuchende): individuals who intend to file an asylum application but have not yet been registered by the Federal Office as asylum applicants.
- Asylum applicants (Asylantragstellende): individuals whose asylum applications have been registered and whose asylum proceedings are pending, meaning that no final decision has yet been made on their case.
- Persons entitled to protection and those with residence rights (Schutzberechtigte and Bleibeberechtigte): individuals who have been granted asylum, refugee status, or subsidiary protection, or who are permitted to stay in Germany on the basis a ban on deportation (Abschiebungsverbot).

This classification system illustrates the legal and bureaucratic precision with which Germany organizes its asylum regime. Each category confers different rights and entitlements under German law, with specific procedural rules governing access to residence, employment, and social benefits. It reflects a structured approach to protection that stands in contrast to the more ambiguous or discretionary systems found in other countries.

2.3 South Korea's Asylum Framework: Legal Categories and Administrative Discretion

South Korea enacted its first standalone Refugee Act in 2013, becoming the first country in Asia to legislate refugee protection as a distinct legal domain. The Act formally adopts the 1951 Refugee Convention's definition and outlines procedures for refugee status determination (hereafter RSD), basic rights, and institutional responsibilities. The key legal statuses under South Korean law include:

- Recognized Refugees (난민인정자): Applicants who meet the Convention definition and are officially granted refugee status by the Ministry of Justice (MOJ). They receive a refugee certificate, an F-2-4 visa (allowing long-term residence), and have conditional access to work, welfare, and education.
- Humanitarian Status Holders (인도적 체류허가자): Applicants who do not qualify as Convention refugees but are deemed unable to return due to threats to life or safety (e.g., war, civil unrest). They are issued a G-1-6 visa. However, this status is granted on a discretionary basis and offers limited rights—including no legal guarantee of social assistance, family reunification, or permanent residency.
- Asylum Seekers (난민신청자): Individuals who have formally submitted a refugee application and are undergoing RSD procedures. They are typically placed under a G-1-5 visa and are prohibited to work for the first six months. Even after that, obtaining a work permit requires a burdensome separate application, often with inconsistent criteria.
- Rejected Applicants & Reapplicants (불인정자 및 재신청자): Individuals whose claims are denied and either file appeals or reapply. These individuals are often left in

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[3] https://www.bamf.de/DE/Themen/AsylFluechtlingsschutz/AblaufAsylverfahrens/Schutzformen/SubisidiaerSchutz/subisidiaerschutz-node.html (Retrieved: 2025.7.16)

a legal gray zone, without access to welfare or employment. The law does not guarantee procedural protections or entitlements for those in the appeal or reapplication stages.

2.4 Comparison: Subsidiary Protection vs Humanitarian Stay in each country

<Table 1> Comparative Overview: Legal Definitions and Institutional Design

Category	Germany: Subsidiary Protection	South Korea: Humanitarian Stay
Legal Basis	Asylum Act (AsylG) §4(1)	Refugee Act, Article 2(3)
Eligibility Criteria	Real risk of serious harm (death penalty, torture, indiscriminate violence); includes harm caused by non-state actors; determined by BAMF	Risk of harm to life or physical safety; defined broadly as humanitarian grounds; determined by MOJ
Assessment Process	Automatically considered during refugee status determination; part of an integrated asylum procedure	Only reviewed after the refugee claim is rejected; requires a separate discretionary application
Legal Rights Granted	Residence permit, access to the labor market, education, partial access to welfare, and limited family reunification	Temporary stay only (G-1-6 visa); no guaranteed access to welfare, education, or family reunification
Stability of Stay	Initially 1 year, renewable; a pathway to permanent residency is possible after 3–5 years	1-year renewable visa; no path to permanent residency or naturalization
Appeal and Review	Judicial appeal available through administrative courts	No clear appeal mechanism; decision rests solely with the MOJ

It is important to recognize a fundamental structural difference between Germany's subsidiary protection (and deportation prohibition) and South Korea's humanitarian stay. While both countries adhere to the 1951 Refugee Convention in defining refugee status, they diverge significantly in how they treat individuals who fall outside the scope of that definition but still require protection. In the European context, particularly under the EU Common European Asylum System (CEAS),[4] Germany's subsidiary protection is grounded in § 4(1) of the Asylgesetz (AsylG), which requires applicants to demonstrate a "real risk" (ernsthafter Schaden) of serious harm—such as the death penalty, torture, or indiscriminate violence—following rejection of refugee status. Importantly, eligibility for this status is automatically assessed during the RSD process as part of an integrated legal procedure overseen by BAMF, without the need for a separate application.

By contrast, South Korea's humanitarian stay is defined under Article 2(3) of the Refugee Act and further detailed in the Presidential Decree. It applies only to those explicitly denied refugee status and requires a separate, discretionary application to be submitted to the Ministry of Justice, outside any standardized protection framework. The law provides vague criteria—such as facing a credible risk of torture or inhuman treatment—while simultaneously stating that permission is granted "as prescribed by Presidential Decree and at the discretion of the

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[4] Article 78(1) of the Treaty on the Functioning of the EU (https://www.bmas.de/EN/Europe-and-the-World/Europe/Migration-from-third-countries/refugees-and-asylum.html?utm_source=chatgpt.com. Retrieved: 2025.7.18)

Minister of Justice." As a result, humanitarian stay is not a rights-based entitlement but a highly discretionary administrative measure, subject to opaque internal guidelines and limited legal oversight.

This procedural divergence is mirrored in the rights afforded to beneficiaries. Germany's subsidiary protection holders, though granted fewer rights than Convention refugees, still receive residence permits, labor market access, partial welfare benefits, and conditional access to family reunification. In contrast, South Korean humanitarian stay holders are issued only a G-1-6 temporary visa, without legal guarantees of access to education, healthcare, social services, or family unity. Furthermore, while both countries initially issue time-limited residence permits, only Germany provides a statutory pathway to permanent residency for subsidiary protection holders under §26(4) of the Residence Act. After five years of legal stay and demonstrated integration, individuals may apply for permanent residence and eventually naturalization. South Korea, by contrast, offers no such legal pathway for humanitarian stay holders.

Ultimately, these differences reflect a broader divergence in protection philosophy: Germany's system is based on layered legal entitlements and integration, while South Korea's approach relies on administrative containment and symbolic gestures of protection.

3. Recognition Rates and Protection Outcomes: A Structural Gap

Despite both Germany and South Korea having ratified the 1951 Refugee Convention and enacted domestic legislation to implement its principles, Germany and South Korea exhibit dramatically different outcomes in refugee protection.

Germany has maintained consistently higher protection rates over the past decade, reflecting a multilayered legal framework that includes refugee status, subsidiary protection, and deportation bans. While the first two categories (recognized refugee status and subsidiary protection) are well known under international and EU law, "deportation bans" refer to protection granted under domestic law to individuals who may not qualify as refugees but face serious humanitarian or medical risks upon return, such as the lack of access to essential healthcare or exposure to inhuman treatment.[5]

\<Table 2\> Decisions and Protection Rates in Germany (2016–2024)

Year	Total Decisions	Recognized Refugees	Subsidiary Protection	Deportation Ban	Recognition Rate	Protection Rate
2016	695,733	256,136	153,700	24,084	36.8%	62.4%
2017	603,428	123,909	98,074	39,659	20.5%	43.4%
2018	216,873	41,368	25,055	9,548	19.1%	35.0%
2019	183,954	45,053	19,419	5,857	24.5%	38.2%
2020	145,071	37,818	18,950	5,702	26.1%	43.0%
2021	149,954	32,065	22,996	4,787	21.4%	39.9%
2022	228,673	40,911	57,532	30,020	17.9%	56.2%
2023	261,601	42,525	71,290	21,462	16.3%	51.7%
2024	301,350	37,795	75,092	20,823	12.5%	44.4%

Source: BAMF, "Aktuelle Zahlen–Juni 2025"

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[5] Under §60(5) and (7) of the German Residence Act (AufenthG), deportation bans are granted to individuals facing concrete risks to life, health, or dignity in their country of origin. While this status provides temporary residence (typically one year, renewable), it does not guarantee long-term residency or access to full integration rights. Rights include access to basic healthcare, limited employment, and protection from removal, but often exclude family reunification and welfare entitlements.

During peak periods of displacement such as the Syrian refugee crisis (2015–2016), Germany's total protection rates exceeded 60%, and even in 2023, the combined rate of refugee recognition and subsidiary protection remained above 40%, with deportation bans granted to thousands of additional applicants (see table 2). This structured and codified system has provided a broader safety net for vulnerable individuals, in contrast to the more restrictive or discretionary asylum systems in South Korea.[6]

<Table 3> Decisions and Protection Rates in South Korea (2016–2024)

Year	Total Final Decisions	Recognized Refugees	Humanitarian Stay	Total Protection Granted	Recognition Rate	Protection Rate
2016	5,665	98	252	350	1.7%	6.2%
2017	5,874	121	316	437	2.1%	7.4%
2018	3,954	144	507	651	3.6%	16.5%
2019	5,060	79	229	308	1.6%	6.1%
2020	6,237	69	154	223	1.1%	3.6%
2021	6,842	72	49	121	1.1%	1.8%
2022	4,892	175	55	230	3.6%	4.7%
2023	5,458	101	125	226	1.9%	4.1%
2024	5,610	105	101	206	1.9%	3.7%

Source: Ministry of Justice, Korea, Refugee Statistics, 2024

As of 2024, South Korea recognized merely 1.9% of finalized asylum applications as qualifying for full refugee status, with an additional 1.8% granted temporary humanitarian stay. This brings the total protection rate to 3.7% (MOJ, 2024). In contrast, Germany's recognition and protection rates have remained significantly higher over the past decade, especially in response to the Syrian crisis and subsequent conflicts.

These numbers are not simply statistical differences—they represent distinct structural orientations toward refugee protection. Germany processes large volumes of applications with relatively clear standards and legal frameworks, while South Korea grants status sparingly, often after long delays and with limited procedural transparency. Notably, even among applicants from the same country (e.g., Yemen, Myanmar), the likelihood of being recognized as a refugee varies drastically depending on where the claim is filed.

4. Public Discourse, Media, and Political Responses
4.1 South Korea: National Homogeneity and the Specter of "Fake Refugees"

Policy design and implementation in South Korea are profoundly shaped by dominant public narratives and cultural imaginaries. Long constructed as an ethnically homogeneous and mono-national society, South Korea has often perceived refugees as external to its imagined national body (Jeon, 2020). This perception was disrupted in 2018 when over 500 Yemeni asylum seekers arrived on Jeju Island, triggering a national debate on refugee acceptance.

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[6] In Germany, deportation bans are codified under §60(5) and (7) of the Residence Act (AufenthG), reflecting binding obligations under European and international human rights law. These bans result in formal protection status and legal residence. In contrast, South Korea lacks any equivalent statutory provision. While Article 2(3) of the Refugee Act offers humanitarian stay for those at risk of inhuman treatment, it is discretionary and lacks the normative force and justiciability of Germany's deportation prohibition.

Conservative media outlets such as Chosun Ilbo framed the refugees as "fake asylum seekers" exploiting the legal system, while progressive papers like Hankyoreh emphasized humanitarian obligations and the minimal scale of the arrivals (Shin & Ma, 2019). These polarized narratives produced a binary image of the Yemeni refugee: either a dangerous outsider or a vulnerable victim.

Social media further intensified the public divide. Many young Korean women voiced safety concerns which became prominent in opposing refugee admission. Jeon (2020) interprets this phenomenon as an "accidental solidarity"—a convergence of gender-based security anxieties and right-wing nationalism, resulting in a resurgence of patriarchal protectionist logics. The discourse was shaped not only by xenophobia but was also infused with deeply gendered moral orders.

Public reaction culminated in an e-government petition signed by over 714,000 people, demanding revisions to the Refugee Act and the denial of asylum to the Yemeni applicants (Ko, 2024). Many of the signatories espoused what NANCEN (2024) describes as "victim's nationalism," arguing that Korea, as a non-colonial state, had no historical responsibility to accept refugees. Rather than challenging these views, MOJ responded by affirming Korea's strict screening process. Then-Justice Minister Park Sang-ki emphasized the need to identify "false asylum seekers," effectively legitimizing public fear and further securitizing asylum (Yonhap News, 2018).

In 2023, the South Korean Ministry of Justice introduced proposed amendments to the Refugee Act aimed at implementing additional screening mechanisms. However, the proposed changes were criticized by legal scholars and international organizations for lacking adequate procedural safeguards, raising concerns about potential violations of due process and international refugee protection norms (UNHCR, 2023). At the same time, public discourse in South Korea increasingly racialized and criminalized refugees, constructing them less as rights-bearing individuals and more as potential threats to national cohesion and security (NANCEN, 2024). The humanitarian stay system has functioned as a political compromise mechanism—allowing for temporary residence while circumventing the conferral of substantive rights, thereby reducing the number of officially recognized refugees (Schattle & Seo, 2024). As Shin and Ma (2019) observe, public and institutional narratives have reframed asylum not as an internationally guaranteed right, but as a privilege subject to national interest and political calculation.

4.2 Germany: From *Willkommenskultur* to Contested Integration

Germany's public and political responses to refugees have been both dynamic and internally contradictory. At the height of the Syrian refugee crisis in 2015, the German government adopted a posture of moral openness, encapsulated in the notion of *Willkommenskultur* (welcome culture). Chancellor Angela Merkel's widely cited statement, *"Wir schaffen das"* (We can manage this), came to symbolize Germany's humanitarian commitment and willingness to uphold refugee protection norms (Triadafilopoulos, 2017).

Initial media coverage in Germany largely emphasized humanitarian responsibility and compassion. Public opinion surveys conducted in late 2015 indicated that nearly 60% of respondents believed Germany could effectively manage the influx of refugees (Eberl et al., 2018). This prevailing optimism was closely tied to Germany's postwar democratic identity and to a collective moral imperative to reject exclusionary or xenophobic policies.

However, as refugee arrivals continued at high levels and high-profile incidents—such as the 2015–2016 Cologne New Year's Eve assaults and several terrorist attacks—received widespread media attention, public sentiment began to shift. The far-right party Alternative für Deutschland (AfD) capitalized on these anxieties, entering the Bundestag in 2017 with a

platform centered on anti-immigration and nationalist rhetoric. Concurrently, grassroots movements like PEGIDA (Patriotic Europeans Against the Islamization of the West) organized frequent demonstrations, and local opposition to refugee shelters intensified across several regions (Associated Press, 2025).

The Ukrainian refugee crisis revealed a marked disparity in public and political responses. Ukrainian refugees—predominantly Christian and culturally perceived as proximate to German society—were met with widespread sympathy and policy support. In contrast, asylum seekers from Middle Eastern countries continued to encounter racialized suspicion, bureaucratic barriers, and social ambivalence (Kaiser, 2023). This divergence underscores the persistence of a racialized hierarchy in refugee reception, reinforcing broader concerns about selective humanitarianism.

More recently, however, this initial exceptionalism has begun to erode, as public discourse and policy framing in Germany have increasingly shifted toward migration control, cost containment, and administrative capacity, accompanied by political efforts to reduce asylum numbers and reassess protection frameworks, including those applied to Ukrainian refugees (DW, 2024; DW; 2026).

In response to mounting public concerns, the German government adopted a dual strategy combining restrictive and supportive measures. On the one hand, it moved to assuage anxieties by designating several Balkan countries as "safe," limiting family reunification rights for certain protection categories, and formalizing the EU-Turkey deal to curb new arrivals (Bendel & Servent, 2017; European Council, 2016). On the other hand, Germany simultaneously expanded investments in refugee housing, integration programs, and upheld the legal rights of those already granted protection.

Immigration policy became a defining issue in the 2025 federal elections. The formation of a coalition government between the Christian Democratic Union (CDU) and the Social Democratic Party (SPD) signaled a shift toward more stringent immigration enforcement. Proposed measures included enhanced border controls and further restrictions on family reunification for selected asylum categories (Fragomen, 2025). Although Germany's constitutional guarantees for asylum remain formally intact, these developments reflect an increasing dominance of deterrence-oriented governance. Concurrently, far-right violence escalated, with Berlin alone recording a significant rise in attacks on refugee accommodations—from 32 incidents in 2023 to 77 in 2024 (The Guardian, 2025).

Despite increasing political polarization, Germany's mainstream political parties have thus far refrained from entering formal coalitions with the far-right (AfD), signaling a continued—albeit strained—commitment to preserving democratic norms. Nonetheless, leading human rights organizations have raised concerns that the mainstreaming of populist rhetoric, even in the absence of direct political alliance, poses a serious threat to Germany's longstanding obligations under international refugee protection frameworks (ECRE, 2025).

4.3 Comparative Reflections: Populism, Rights, and Discursive Power

In both Germany and South Korea, public discourse, media representation, and populist politics have played a decisive role in shaping the architecture and implementation of refugee protection. In the South Korean context, populist anxieties, particularly around national identity, gendered safety, and economic scarcity, have been institutionalized through administrative containment strategies and symbolic forms of humanitarianism. The refugee is increasingly securitized and reframed as a potential threat, while the humanitarian stay mechanism operates primarily as a means of reducing formal refugee recognition without expanding substantive rights.

In Germany, although legal and institutional protections remain comparatively robust, sustained public anxiety and the rise of far-right political influence have exerted considerable pressure on the state to adopt more restrictive and deterrence-oriented policies. The strength of legal frameworks has so far prevented wholesale erosion of refugee rights, but the growing normalization of exclusionary rhetoric illustrates the fragility of rights-based governance under populist strain.

5. Lived Asylum: Ethnographic Reflections on Two Refugees

This chapter presents ethnographic portraits of two refugees—one from Myanmar living in South Korea, and another from Syria residing in Germany—based on field encounters and narrative reconstruction. The aim is to demonstrate how institutional structures are not only policy frameworks but lived environments that profoundly shape daily experience, vulnerability, and the possibility of future planning for those subjected to them. By foregrounding the voices and trajectories of individuals situated within divergent asylum regimes, this chapter seeks to humanize the legal comparisons made earlier in this paper and illustrate the affective and existential dimensions of recognition, exclusion, and bureaucratic temporality. Their divergent journeys offer a grounded, human-scale understanding of how legal categories, institutional design, and state discretion shape the lived experience of asylum.

The portraits presented here are drawn from ethnographic engagement in both South Korea and Germany. I met B, the Myanmar refugee, referred to here as B, through a collaborative research project conducted with a researcher focused on refugee communities in Seoul. Fluent in Korean, B participated in an in-depth online interview conducted in Korean. His narrative was shaped by personal testimony, institutional documents, and observation of his everyday life within a local support network.

I first came to know A, a Syrian refugee, referred to as A, during the author's participation in an integration-oriented German language course in Berlin, part of the state's mandatory civic education program for migrants and asylum seekers. Over the span of two months, I maintained regular informal contact with A outside the classroom, conducting a series of unstructured ethnographic conversations about his life history and experiences with the German asylum system. These interactions, embedded in shared learning spaces and informal encounters, offered insight into how institutional frameworks were experienced and negotiated in practice.

5.1 The Myanmar Asylum Seeker in South Korea

B, a man born in 1995 and originally from Myanmar, first arrived in South Korea in 2016 under the Employment Permit System (EPS)[7], intending to earn money and return home to start a small business. He initially worked in a factory under harsh conditions, eventually injuring his back and became unable to continue manual labor. This led to the expiration of his work visa and a subsequent period of undocumented stay.

B's status shifted dramatically following the February 2021 military coup in Myanmar. Already engaged in diaspora networks, he became a key organizer in the overseas pro-democracy movement in South Korea. He co-founded a civil society coalition, joined weekly protests outside embassies and welfare centers, and coordinated with resistance groups and support networks within Myanmar. His visibility as an activist made him a target: his photo

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[7] South Korea's Employment Permit System (EPS) is a government-to-government labor migration framework that allows foreign workers from designated countries to work legally in low-skilled industries. Migrant workers are bound to a single employer and face restrictions on changing jobs, with limited long-term integration pathways.

was circulated in pro-junta Telegram channels, and he received online threats directed at him and his family. A friend who approached the Myanmar embassy in Seoul even found B's name and photo posted at the entrance, marked with a warning.

Fearing persecution if returned, B applied for asylum at the Daegu Immigration Office in August 2022. As a previously undocumented migrant, he was fined 20 million KRW (roughly $15,000 USD) as a condition for processing his application. He borrowed the money from friends and fellow activists, many of whom were also migrants. Despite his active participation in recognized civil society groups and documentation of his political work, he waited more than 18 months before being called for his initial interview. The interview, held in Incheon in December 2024, lasted less than an hour and was conducted with a volunteer interpreter.

In the absence of a decision on his asylum claim, B remains in South Korea under a state of precarious legal limbo. His G-1-5 visa must be renewed monthly, each time requiring paperwork, visits to the immigration office, and occasional penalties for procedural delays. His attempts to extend the visa were met with inconsistent demands—some immigration offices threatened deportation or detention for minor delays, while others accepted petitions from NGOs on his behalf. When he once missed the renewal window due to urgent activism, he was nearly sent to a detention center and was fined 2.4 million KRW, which he negotiated down to 1.4 million.

Throughout this time, B has not been legally permitted to work. His survival has depended on an informal donation network organized among Myanmar-related civil groups in Korea. Friends pool monthly contributions to support him, recognizing his central role in community organizing. As a prominent figure in Myanmar's diaspora activism in Korea, B attends policy meetings, gives testimony at the National Assembly, and helps coordinate humanitarian aid to internally displaced persons in Myanmar.

Despite this active civic role, B's asylum process remains stalled. He expresses frustration that his visible, verifiable political activities have not translated into recognition or protection: "I live with a visa, but no life. I wait, but the system does not see me." His case underscores the profound legal and existential precarity asylum seekers are facing in South Korea, particularly those without documentation. The humanitarian-stay system offers neither protection nor dignity, functioning instead as a tool of administrative containment.

5.2 The Syrian Refugee in Germany

I met A, a Syrian man in his 50s, by the author during a B1-level German language course[8] in Berlin. The course was part of the German government's civic integration program for migrants and asylum seekers, of which I was not aware at the registration. Among the fifteen students in the class, about half were labor migrants, and A sat next to me during lessons. Through informal conversations during breaks and class discussions conducted in basic German, A gradually shared his migration story.

He arrived in Germany alone in 2015 at the height of the Syrian civil war. Upon arrival, he was granted refugee status and, in the years that followed, successfully applied for family reunification. His wife and two daughters eventually joined him in Germany. Initially, he relied on the social welfare system for housing and basic support. Two years prior to the interview, he secured employment at a German construction company and has since advanced to a supervisory role overseeing other Syrian refugee workers.

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[8] The Common European Framework of Reference for Languages (CEFR) is a standardized scale used across Europe to assess language proficiency. B1 represents an intermediate level, indicating the ability to deal with everyday situations, describe experiences, and express opinions with limited fluency. Under Germany's Residence Act (§9 AufenthG), a B1 certificate is generally required for third-country nationals to qualify for permanent residency, as it demonstrates sufficient integration into German society.

While A expressed general satisfaction with the German refugee system, he also acknowledged the challenges of integration as a first-generation migrant. Despite having lived in Germany for nearly six years, he found the German language particularly difficult to master. His enrollment in the B1 course was motivated by the legal requirement for permanent residency and eventual naturalization. Although he was optimistic about securing long-term legal status and viewed Germany as a safer and more promising place for his daughters to grow up, he admitted that his own prospects for linguistic and cultural integration remained limited. His inconsistent attendance due to work commitments further complicated his progress.

A's case highlights how Germany's rights-based asylum system, while imperfect, provides tangible avenues for long-term settlement and intergenerational mobility. The stability and clarity of legal status, access to family reunification, and structured integration programming stood in marked contrast to the precarity experienced by B in South Korea.

5.3 Refuge and Recognition in Comparative Perspective

The narratives of B and A illustrate how asylum systems do more than categorize individuals—they materially shape their futures. A, the Syrian refugee in Germany, despite linguistic challenges and integration barriers, expressed a sense of stability grounded in legal clarity. His ability to reunite with his family, secure formal employment, and fulfill the requirements for permanent residency contributed to a positive outlook. He saw Germany not only as a place of safety but also as a long-term home, particularly for his children, whose fluency in German signaled a pathway to full societal belonging.

In contrast, B, the Myanmar asylum seeker in South Korea, navigates a life marked by recurring uncertainty. His legal status, renewed monthly and dependent on the discretion of immigration authorities, offers no clear pathway to permanence. Barred from formal employment and dependent on community donations, B's experience is defined by bureaucratic precarity and institutional invisibility. His sense of temporariness is not just legal but existential, rooted in an asylum regime that withholds future-oriented security.

These two cases demonstrate that legal and institutional design affects not only the adjudication of asylum but the very conditions under which refugees can imagine and pursue a life beyond survival. A's account reveals how codified rights and integration infrastructure can foster long-term planning and intergenerational optimism. B's story illustrates how discretionary, minimalistic protection traps individuals in a cycle of deferred recognition. Law, in this context, functions not merely as a procedural apparatus but as an ontological structure—defining who may belong, who must wait, and who remains perpetually outside the promise of rights.

6. Conclusion: Legal Design and the Politics of Refugee Recognition

This paper has comparatively examined the refugee protection systems of Germany and South Korea to explore how legal and institutional design affects not only recognition rates but also the lived realities of asylum. Through a multi-dimensional institutional lens, encompassing legal frameworks, procedural structure, bureaucratic discretion, public discourse, and ethnographic testimony, it has demonstrated that refugee protection is shaped not merely by international norms, but by how states internalize, reinterpret, and implement those norms.

Germany's system is marked by a layered and codified approach, grounded in constitutional commitments and EU asylum standards. Refugee status, subsidiary protection, and deportation bans are integrated within a single adjudication process, with clear legal consequences for each. Importantly, rights-based inclusion is embedded in the institutional structure, allowing beneficiaries access to employment, education, healthcare, and family reunification. As seen

in the ethnographic case of A, the Syrian refugee in Berlin, this framework enables long-term planning, labor market integration, and intergenerational mobility, even as political pressures and far-right sentiment threaten to erode these gains.

In contrast, South Korea's asylum system reflects a model of administrative containment. Legal ambiguity, centralized discretion, and a highly restrictive recognition process produce low protection rates and prolonged uncertainty. Humanitarian stay operates as a symbolic concession—granting temporary residence while systematically withholding rights. The case of B, the Myanmar asylum seeker, underscores how such a system generates "permanent temporariness," where individuals are tolerated but not integrated, visible yet structurally excluded.

Taken together, the paper argues that the legal-institutional design of refugee protection systems has ontological consequences: it not only determines access to status but delineates the conditions under which refugees can imagine their futures. Law is not simply a procedural apparatus, but it is a space of possibility or closure, a gatekeeper of dignity, belonging, and time itself.

References:

Ahn, S. (2017). 독일의 난민법 개혁의 현황과 시사점 [The current status and implications of Germany's refugee law reform]. European Constitutional Law Review, 23, 389–425.

Associated Press. (2025, April 15). German far-right AfD gains in 2025 elections amid immigration concerns. AP News. https://apnews.com/article/germany-far-right-afd-election-migration-weidel-53ed34f57556ad394c53868726d47194

Bendel, P., & Servent, A. R. (2017). Asylum and refugee protection: EU policies in crisis. In T. A. Börzel & T. Risse (Eds.), The Routledge handbook of justice and home affairs research (pp. 59–69). Routledge.

Bundesregierung. (2015, August 31). Angela Merkel on refugee policy: "Flexibility is called for now". Bundesregierung. https://www.bundesregierung.de/breg-en/service/archive/archive/-flexibility-is-called-for-now--435220

Bundeszentrale für politische Bildung. (2023, February 8). PEGIDA. bpb.de. https://www.bpb.de/themen/rechtsextremismus/dossier-rechtsextremismus/500835/pegida/

Connor, P. (2019, June 20). Germany welcomed refugees. Now it's reaping the economic benefits. Al Jazeera. https://www.aljazeera.com/economy/2019/6/20/germany-welcomed-refugees-now-its-reaping-the-economic-benefits

Deutsch Welle. (2024, December 5). German interior minister: My migration course is tough. Detsch Welle. https://www.dw.com/en/german-interior-minister-my-migration-course-is-tough/a-74796372

_____. (2025, April 17). Germany's CDU, SPD rule out coalition with AfD after election gains. Deutsche Welle. https://www.dw.com/en/germanys-cdu-spd-rule-out-coalition-with-afd-after-election-gains/a-66548912

_____. (2026, January 5). Asylum application in Germany down by half in 2025. Deutsch Welle. https://www.dw.com/en/asylum-applications-in-germany-down-by-half-in-2025/a-75386053

Eberl, J. M., Meltzer, C. E., Heidenreich, T., Herrero, B., Lind, F., & Boomgaarden, H. G. (2018). The European media discourse on refugees and its effects: A literature review. European Journal of Communication, 33(4), 441–456. https://doi.org/10.1177/0267323118787627

European Council. (2016, March 18). EU-Turkey statement. Council of the European Union. https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/

European Council on Refugees and Exiles. (2024). Access to education. Asylum Information Database. https://asylumineurope.org/reports/country/germany/reception-conditions/employment-and-education/access-education/

European Council on Refugees and Exiles. (2025, April 24). Op-Ed: Germany's dangerous shift to the right: The new coalition agreement is a blow to refugee protection. ECRE. https://ecre.org/op-ed-germanys-dangerous-shift-to-the-right-the-new-coalition-agreement-is-a-blow-to-refugee-protection/

Eurydice. (2023). Support measures for learners in early childhood and school education: Germany. European Commission. https://eurydice.eacea.ec.europa.eu/national-education-systems/germany/support-measures-learners-early-childhood-and-school-education

Fragomen. (2025, April 18). Germany's upcoming government outlines immigration policy plans. Fragomen Insights. https://www.fragomen.com/insights/germany-upcoming-government-publishes-immigration-policy-plans.html

Gowayed, H. (2022). Refuge: How the state shapes human potential. Princeton University Press.

Hans Schattle, & Seo, Y. (2022). The challenges in balancing national interests and global responsibilities in South Korea's refugee policy. International Journal of Refugee Law, 33(4), 581–612. https://doi.org/10.1093/ijrl/eeac033

Ilgit, A., & Klotz, A. (2018). How Germany became an immigration country: Refugee integration and the 2015 crisis. Journal of Ethnic and Migration Studies, 44(4), 615–633.

Im, B., et al. (2024). 난민 정책과 난민법 개정에 대한 비판적 고찰 [Critical review of refugee policy and refugee law amendment]. Hankuk University of Foreign Studies.

Jeon, U. (2020). 타자의 본질화 안에서의 우연한 연대: 한국의 반다문화와 난민 반대의 젠더 정치 [Accidental solidarity in the essentialization of the Other: Gender politics of Korea's anti-multiculturalism and refugee opposition].

Kang, N. (2021). 정책모호성의 정책집행에 미치는 영향: 한국의 난민정책 실패와 독일의 성공 비교분석 [Effect of ambiguity on policy implementation: Comparative analysis of South Korea's refugee policy failure and Germany's success]. Unpublished master's thesis, Seoul National University.

Kaiser, Z. A. (2023). Refugee and asylum policies in Europe: Examining disparities in rights and compassion. *Journal of Muslim Minority Affairs*, 1–19. https://doi.org/10.1080/13602004.2025.2476139

Kim, N. (2024). 한국의 난민정책 실패와 독일의 성공 비교분석 [Comparative analysis of South Korea's refugee policy failure and Germany's success]. Unpublished master's thesis, Seoul National University.

Ministry of Justice. (2024). 94–24 년 난민 신청 및 심사 통계 [1994–2024 refugee application and determination statistics]. https://www.immigration.go.kr/

NANCEN Refugee Rights Center. (2024). 난민신청자의 노동권: 체류자격외활동허가 제도의 문제점과 개선 방향 [The right to work for asylum seekers: Problems and improvement directions of the work permit system]. Retrieved April 27, 2025, from https://nancen.org/416313

NANCEN Refugee Rights Center. (2018). 난민 생활비 지원 제도의 문제점과 개선방향 [Problems and improvements of the refugee living expense assistance system]. https://nancen.org/416291

NANCEN Refugee Rights Center. (2024). 난민에 대한 인종주의 [Racism against refugees]. https://nancen.org/416292

Shin, Y., & Ma, D. (2019). 국내 미디어에 재현된 예멘 난민의 양면: 조선일보와 한겨레신문 보도에 대한 비판적 담론분석 [Two faces of Yemeni refugees in Korean media: A critical discourse analysis of Chosun Ilbo and Hankyoreh]. Media, Economy and Culture, 17(2), 31–80. https://doi.org/10.21328/JMEC.2019.5.17.2.31

The Guardian. (2025, April 21). Berlin reports surge in attacks on refugees amid rise in far-right crime. The Guardian. https://www.theguardian.com/world/2025/apr/21/berlin-reports-rise-in-attacks-on-refugees-amid-surge-in-far-right-crime

Triadafilopoulos, T. (2017). Germany and the Syrian refugee crisis: Willkommenskultur meets realpolitik. In M. Green & M. O'Neil (Eds.), Europe's refugee crisis: Regional and urban policy responses (pp. 23–36). Springer.

UNHCR. (2023, January). UNHCR observations on the outline of the 4th basic plan for policies on foreigners of the government of the Republic of Korea. United Nations High Commissioner for Refugees. https://www.unhcr.org/kr/sites/kr/files/2024-10/unhcr_observations_on_the_outline_of_the_4th_basic_plan_for_policies_on_foreigners_of_the_government_of_the_republic_of_korea.pdf

Yonhap News Agency. (2018, August 1). Justice minister vows stricter refugee screening amid public anxiety. Yonhap News. https://www.yna.co.kr/view/AKR20180801135800004