

**MATERNITY AND CHILDCARE LEAVE AND
THE STRUGGLE FOR EQUAL RIGHTS IN KOREAN LABOR MARKET**

**By
SongYi Baek**

THESIS

Submitted to

KDI School of Public Policy and Management

in partial fulfillment of the requirements

for the degree of

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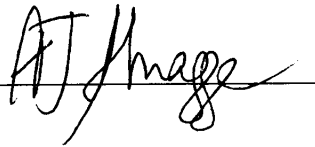
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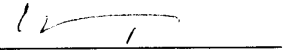
MASTER OF PUBLIC POLICY

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ABSTRACT

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By

SongYi Baek

Despite availability of a maternity and childcare leave system, female workers in the Korean labor market are forced to choose between motherhood and their career as they face great difficulty in utilizing the system. This paper examines such difficulty by exploring the historical marginalization of female workers from which the difficulty emerged and by analyzing various cases of difficulties experienced by workers from government, scholarly articles and media reports. The findings suggest the male-centric workplace culture is one of the major factors that obstruct the usage of the leave system. To challenge the current workplace culture, I suggest that an effective government monitoring of workplaces with regard to the maternal protection laws and a combined effort of government, women's organizations, and labor unions are necessary along with the collective demands of female workers.

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I Introduction

A half a century of modernization and industrialization since the Korean War have generated a new breed of young women in South Korea who are equally or even more educated than men. In 2009, the ratio of females advancing to college or university was 82.5%, which surpassed that of males (81.6%).¹ Compared to the older generation of women who sought higher education to become eligible brides of highly educated men, young women in current Korean society show a strong desire for having a career upon the completion of their education, given that 92.1% of women in 20s and 30s think positively about having an occupation, according a survey conducted by Statistics Korea.² While young women are ever more enthusiastic about becoming a part of the workforce, the female labor force participation rate in 2010 was mere 54.5%, far below the OECD average of 61.8%.³ One of the causes contributing to the low utilization of the female workforce is a sudden drop in the workforce participation rate for women between ages 30 to 34. In 2009, the workforce participation rate for women between ages 25-29 was 69%; whereas the rate for women between ages 30-34 was 51.9% (refer to Fig.I).⁴

Considering that women between ages 30-34 are the prime age group of women that experience childbearing and childrearing in South Korea, the drastic decline in the workforce participation rate of this particular age group demonstrates that women are forced to choose between their career and motherhood. However, female workers are entitled to a statutory right to use a 90-day maternity leave and a one-year parental leave to protect their career while they leave the job market temporarily for childbearing and childrearing. These leaves are mechanisms that have been implemented by the legislature in order to allow working

¹ Ministry of Employment and Labor, Women's Employment Policy Division, *여성과 취업 2010년도* [2010 Women and Work] (Gwacheon: Ministry of Employment and Labor, December 2010), 6.

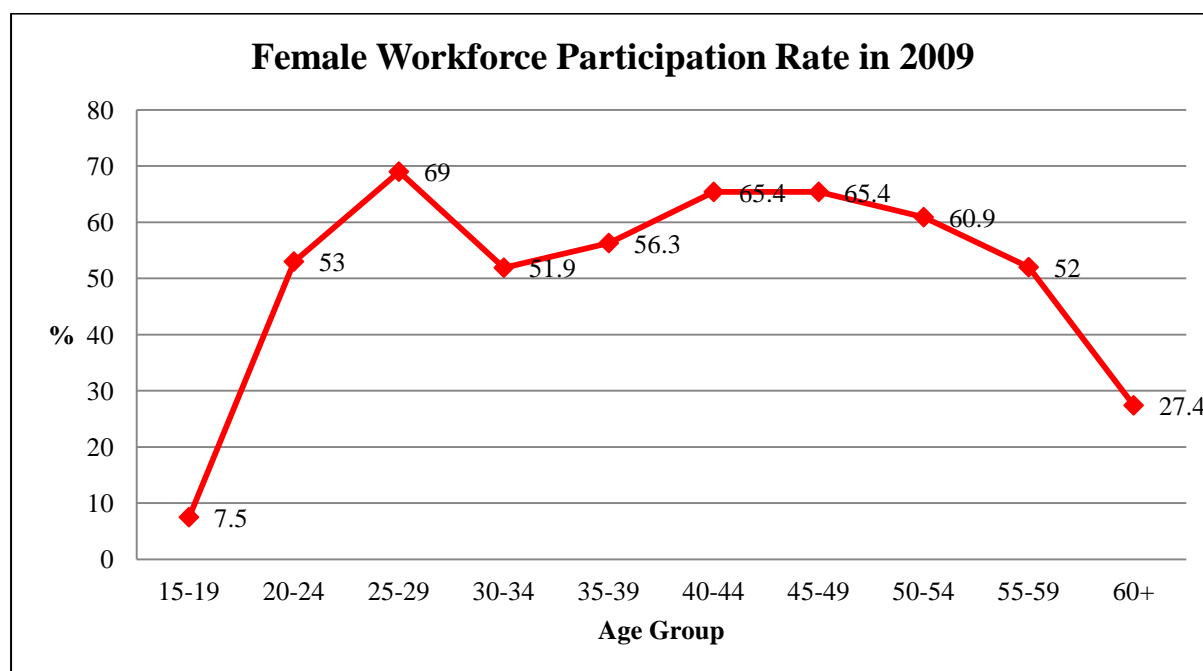
² *Ibid.*,7.

³ Organization for Economic Cooperation and Development, "Labor Force Statistics by Sex and Age," OECD, accessed August 6, 2011, http://stats.oecd.org/Index.aspx?DataSetCode=LFS_SEXAGE_I_R.

⁴ Ministry of Employment and Labor, Women's Employment Policy Division, 10.

mothers to balance between career and motherhood. Nevertheless, the phenomenon of exodus of working mothers out of the labor force indicates that the leave system is failing to serve its purpose.

Figure I Change in the Female Workforce Participation Rate by Age Group



Source: Korea Statistics (2009)

This paper attempts to explain that female workers are experiencing great difficulties in using maternity and childcare leave in the current Korean labor market due to a male-centric societal and workplace culture that have been neglecting the rights of female workers ever since women started joining the workforce. In lieu of an obsolete social norm that stigmatizes working mothers as bad mothers or inefficient workers, the norm of protecting working mothers needs to be internalized in the workplace to allow female workers to use maternity and childcare leave without difficulties. I argue that the government, labor unions and women's organizations are the major change agents that can pressure workplaces to adopt such a norm, and their combined efforts are a key to fulfilling the desire of young working women to build their career while balancing work and motherhood.

The first section of the paper will explore the historical oppression of women

workers in the Korean labor market, which led to forming a workplace environment that constrains working mothers from fully exercising their legal rights to use maternity and childcare leave. Based on government, scholarly articles and media reports, the second section will examine the current predicament faced by female workers in using maternity and childcare leave. Lastly, the final section will suggest the potential roles that change agents can play in order to enforce workplaces to enhance maternal protection.

Scope and Limitation

This study will focus on the predicament of female workers in using maternity and childcare leave in South Korea. Although maternity leave and childcare leave have been enacted as laws in 1953 and 1987 respectively, the research on the utilization of maternity and childcare leave has been absent until recent years due to the unavailability of data on leave takers. The government has only started to keep track of the number of leave takers from November 2001, when the maternity and childcare leave payments began to be subsidized by the national employment insurance. From 2001 to present, there has been a gradual increase in the number of maternity and childcare leave takers. However, it is difficult to assume such increase has been engendered by a change in the workplace environment. It is most probable that the increase is a response to continuous amendments made in the leave system such as extension of leave period and subsidization of leave benefits.

Furthermore, this study will exclude the public sector in examining the predicament of female workers in using the leave system, for the usage of maternity and childcare leave is more highly encouraged in government organizations than the private sector due to direct intervention of the government. In the private sector, the degree of difficulty faced by female workers in using the leave system varies within industries and firms or among different job types and positions, yet those discrepancies will not be discussed in extensive detail, because

the main aim of this paper is to highlight the difficulty per se. Unlike past research that focused solely on investigating the presence of difficulty in using the leave system, this paper will further explain how the difficulty is currently being addressed by the government, women's organizations and labor unions and recommend their future roles.

Literature Review

In order to establish maternal protection as a widely accepted norm in Korean workplaces, the existing norms that impede women from using maternity and childcare leave need to be challenged. Traditionally, Korean companies have urged their female workers to retire upon marriage or pregnancy, due to rigid gender roles that have been underpinned by long legacy of Confucian ideology. Once married, women were expected give up their work to become stay-at-home mothers and assume household duties. Such a tradition is no longer practiced explicitly, yet it continues to influence how pregnant workers and working mothers are treated in the workplaces today.

Sirin Sung's qualitative study on working mothers in reconciling paid and unpaid work confirmed the influence of Confucian traditions in women's role as housewife and worker in contemporary society. Her study suggested that Confucian traditions in respect of women's roles negatively affect women in balancing their work and family life.⁵ Although not studied within the Korean context, western scholars have also highlighted the correlation between traditional gender norms and working women's conflict.

In *The Most Difficult Revolution: Women and Trade Unions*, Alice H. Cook points out that the origin of the problem faced by working women comes from the historical stereotype of men and women's roles. While men played the role of breadwinner, working outside of home, women's place was at home, taking care of household chores as well as children. This norm of "domestic code" for women persists even today, affecting the way

⁵ Sirin Sung, "Women Reconciling Paid and Unpaid Work in a Confucian Welfare State: The Case of South Korea," *Social Policy & Administration* 37, no.4 (August 2003):342-360.

women are treated in the male-dominant workplace. Cook argues that although modern countries have been trying to achieve gender equality in their workplaces, they have forced women to adapt to the world of work, the world that “has been shaped by men for men.”⁶ On the other hand, men have not made an equal effort to adapt to the world of domesticity, which has resulted in women carrying the double burden of work outside and inside home.⁷

An economist Graciela Chichilnisky argues that the burden of unpaid household work can create negative externality on women’s productivity in the firm, which leads firms to value female workers as riskier assets compared to male workers, for female workers are more likely to engage themselves in the household work. Thus, even if women and men are equally productive, firms justify women’s lower wage with the claim that they are riskier human capital to invest in. With lower salary, women allocate more time in the household work than their male partners, which reinforces inequity between women and men.⁸ While Chichilnisky’s logic appears to be sound, it fails to provide an explanation for a phenomenon where women with higher pay still spend longer hours engaging in household work than their male partners. The only possible explanation for such irrational behavior can be attributed to the traditional gender roles.

The problem of double burden has also been stated by Robert W. Drago in *Striking a Balance: Work, Family, Life*. He establishes the framework of norms that affect the lives of working mothers, namely the motherhood norm, the ideal worker norm, and the individualism norm, and explains that working mothers are under the constant pressure of norms that expect them to become a perfect caretaker of the house, a fully committed worker, and a competent individual who does not have to rely on help from the government. Drago proposes that these norms which trap working mothers need to be challenged and loosened

⁶ Alice H. Cook et al, “Government Policies on Women,” in *The Most Difficult Revolution: Women and Trade Unions* (New York: Cornell University Press, 1992), 21.

⁷ Ibid.

⁸ Graciela Chichilnisky, “The Gender Gap,” *Review of Development Economics* 12, no. 4 (November 2008): 828-844.

through active exchange of communications among working mothers, families, co-workers, employers and communities.⁹

Furthermore, Martha Finnemore and Kathryn Sikkink explain the process of norm internalization through a norm life cycle model constructed of three stages: norm emergence, norm cascade, and norm internalization. The first stage involves the process of norm emergence, in which the norm entrepreneurs persuade others to adopt the norms that they believe the society should adopt. When enough individuals are persuaded, the tipping point occurs, resulting in the wide acceptance of the new norm throughout the society. Finally, the norm goes through the process of internalization to achieve a “taken-for-granted” quality.¹⁰ While the model has been formed to explain the norm dynamics of international politics such as women’s rights and a ban on landmines, it can be applied to institutionalization of the working mothers’ rights in using maternity and childcare leave.

As the past work of scholars suggests, a rigid traditional gender norm can obstruct working women from balancing their work and family life and also from receiving fair evaluation at workplace. Although a government cannot intervene how household work is been divided between a husband and a wife at home, it can reduce the gender gap at workplace by allowing female workers to fully utilize maternity and childcare leave at workplaces. In order to create such a condition, it is imperative to internalize the norm of protecting working mothers. Just as computer software is constantly updated to match the newest hardware, new norm is needed to support new gender roles in society.

⁹ Robert W. Drago, *Striking a Balance: Work, Family, Life* (Boston: Dollars & Sense, 2007).

¹⁰ Martha Finnemore & Kathryn Sikkink, “International Norm Dynamics and Political Change,” *International Organization* 52, no.4 (Autumn 1998): 887-905.

II Oppression of Female Workers in Korean Labor Market

Prior to examining the predicament of female workers in using maternity and childcare leave in the current South Korean labor market, it is imperative to understand what kind of social conditions and events have led to creating such a problem. Although Korea has undergone modernization since the early twentieth century, the progress of elevating women's status in the society has been retarded due to unfavorable external and internal conditions. In Europe, women fought for their emancipation through suffrage movement since the early nineteenth century and subsequently elevated their social status with strong waves of feminism. However, women in Korea were occupied with struggles to liberate the nation from imperial Japan and were not able to focus solely on the women's emancipation movement. Soon after the liberation was achieved, the nation was swept away by the Korean War, which was followed by decade-long dictatorships of two male leaders. Consequently, the issue of women's emancipation never received any major momentum in Korean society, leaving women marginalized and their rights unaddressed.

In this section, I explore the historical oppression and struggles of Korean female workers to explain their vulnerability and lack of social and political support for their job protection. First, I start with a brief reference to the legacy of Confucian practice, which established a society prone to gender discrimination, moving on to the overview of exploitation of the female workforce in light manufacturing industries during the 1960s and 70s and the resistance that emerged thereafter. After explaining the debilitation of women's union activities due to the rise of male-led trade unions, I end the exploration with a discussion of the marginalization of female worker's status after the events of the financial crisis in 1997 and the global economic crisis in 2008.

Historically, women have been treated as second-class citizens in Korean society. During the 500 years of the Chosun dynasty, gender discrimination was legitimized and

institutionalized by patriarchal Confucian doctrine, which placed women at the bottom of the social hierarchy, subordinate to men. Under Confucian society, women's roles were confined to the domestic and private spheres, and women were stigmatized if they could not fulfill household duties, produce a male offspring, and obey their husband and his parents.¹¹ Such systematic oppression indoctrinated women to be submissive and silent, deterring them from challenging their subjection and subordination and seeking emancipation.

However, with the initiation of export-led industrialization in the 1960s, unprecedented numbers of women started to assume roles outside of the domestic sphere as paid workers. The female labor participation rate increased from 28.7 percent in 1960 to 35.2 percent in 1970, 36.6 percent in 1980,¹² and finally 47 percent in 1989.¹³ More than half of the female workforce was concentrated in labor-intensive light-manufacturing industries that produced most of South Korea's exports. These female factory workers typically worked as "spinners, weavers, knitters, sewers, food processors, rubber footwear makers, wig makers and electronics assembly workers."¹⁴ The volume of Korean exports exploded from \$41 million in 1961 to \$65 billion in 1990, of which manufactured exports accounted for over 80%. Based on such figures, it is not an exaggeration to claim that the female workers were the "engine," a major driving force behind South Korea's economic development.¹⁵

Despite the tremendous contribution made to the nation's economic development, Korean female workers were treated as inferior to their male counterparts, which exemplified the extension of gender discrimination from the society into the workplace. While male workers in the capital-intensive sector enjoyed "secure employment, high wages, and upward career mobility," female workers in the labor-intensive sector suffered job insecurity,

¹¹ Tae-young Lee, "Elevation of Korean Women's Rights," *Korea Journal* 4, no. 2 (1964): 7.

¹² Mikyoung Kim, "South Korean Women Worker's Labor Resistance in the Era of Export-oriented Industrialization," *Development and Society* 32, no.1 (June 2003): 81.

¹³ Kyung Ae Park, "Women and Development: The Case of South Korea," *Comparative Politics* 25, no.2 (January 1993): 131.

¹⁴ Kim, 82.

¹⁵ Park, 131.

underpayment, and lack of career mobility.¹⁶ Within individual factories, discrimination existed in the form of gender-based task segregation, crowding women into low-skill, low-profile, and insecure positions. For example, in the apparel industry, male workers held positions in engineering and machine maintenance, and female workers were in charge of sewing and finishing products.¹⁷ Even if the task of female workers was more crucial than that of male employees in the production process, their work was considered “miscellaneous” by the employer.¹⁸

Throughout different industries, female workers worked longer hours but were paid less, earning about half or less than the average male worker’s wage, which often did not support the minimum cost of living.¹⁹ Most of the female factory workers were young single girls from rural backgrounds who were not only exploited by their employers but also by their family to provide monetary contribution to support their family or education for their male siblings.²⁰ Married women were paid even less than the single female workers. Since the societal norm frowned upon married women working outside of the home, they remained silent in their poor working condition.²¹

In addition to discrimination in task, wage, and job promotion, female workers faced sexual harassment as well as verbal and physical abuse from their male supervisors. According to autobiographies of female workers written in the 1970s and 80s, it was not uncommon to witness male supervisors touching and sexually harassing female workers during and after their work hours.²² Moreover, the male supervisor would enslave the female workers “with the threat of spreading the word that they were not virgins,” or by coercing

¹⁶ Kim, 81.

¹⁷ Kyoung-Hee Moon, “Integration of Women into Development: Women’s Working Conditions in the Korean Textile and Apparel Industries,” *Labour and Management in Development Journal* 4, no.1 (2003): 7

¹⁸ Kim, 87.

¹⁹ Hyunback Jung, “The Lives and Mentalities Through Autobiographies of Female Workers,” *여성과 역사* [Women and History] 1(2004):20

²⁰ Ibid, 22.

²¹ Gina Kong, “Are Women-only Trade Unions Necessary in South Korea? A Study of Women Workers’ Struggles in Korea’s Labor Market,” *Northwestern Journal of International Law & Business* 29(2009): 220.

²² Jung, 26.

them with sexual violence.²³ The dismal portrait of female workers during the glorious period of economic development reveals that women were not empowered by having a job. Rather, the workplace was another male-centered organization that persecuted women. Outside and inside the domestic sphere, Korean women were living “a life little removed from slavery.”²⁴

Under such circumstances, legal protection for female workers was almost nonexistent in South Korea. Although the Labor Standards Act in 1953 provided 60 days of maternity leave along with one-day monthly menstruation leave for female workers, it was merely a perfunctory protection rarely guaranteed in workplaces. Demanding the right to use maternity or menstrual leave seemed unrealistic when female workers were deprived of most basic rights, working in a hazardous environment that caused job-related illnesses and having insufficient break time.²⁵ As the female workforce increased in numbers, the female workers started to look for ways to improve their poor working conditions by organizing an “autonomous grass-roots” union.²⁶

The female workers’ resistance was notably active from the mid-1970s to the mid-1980s. However at the same time, their activities were severely suppressed by the military regimes of Park Chunghee and Chun Doo-hwan. Under Park’s regime, labor laws restricted “collective bargaining rights and collective action” and “specifically prohibited labor disputes and labor unions in foreign owned firms and export-oriented industries,” which affected mostly female workers who consisted of the majority of employees in those firms and industries.²⁷ This meant that even if female workers mobilized themselves to go on strike, they faced violent dismissal by the police force, resulting in imprisonment of union leaders

²³ Kim, 93.

²⁴ Lee, 5.

²⁵ Kim, 87-88.

²⁶ Kong, 220.

²⁷ Ibid., 221.

and workers.²⁸ The government took a pro-management stance, ridiculing the female workers' resistance as "factory girls' group hysteria,"²⁹ because it was aware that the economic growth could not be achieved without exploitation of cheap female labor. The state controlled the female labor union activities through extremely violent means, including physical beatings and sexual assault such as "stripping, kissing, fondling, threat of rape, and rape itself."³⁰

Management reacted to the female workers' demands with the same cruelty, as witnessed in the case of the Dong-II textile factory. When a women's union emerged to replace the ineffective union represented by male leadership at the Dong-II textile factory, the management and male workers tried to dissolve the women's union by buying off votes, making threats, and assaulting them physically and sexually. The female workers finally went on a hunger strike, and soon faced an armed police force that came to disperse them. To resist police arrest, female workers undressed themselves, yet the police and male workers dragged these vulnerable, half-naked women away by pulling their hair.³¹ Such a scene was just one of many brutal suppressions of the female-led labor union movement during the era of autocratic military regimes. The employer and the state were determined to enslave the female workers for larger profits and greater growth for the nation's economy.

Nevertheless, the female workers were resilient in making their demands to employers. According to the report of the labor movement published in 1986, 11 out of 13 well-known cases of labor disputes between 1971 and 1985 were organized by female workers.³² Moreover, the labor unionization rate of female workers was greater than that of

²⁸ Ibid.

²⁹ Kim, 91.

³⁰ Jeong-Lim Nam, "Women's Role in Export Dependence and State Control of Labor Unions in South Korea," *Women's Studies Int. Forum* 17, no.1 (1994): 60.

³¹ Kim, 88-89.

³² Nam, 64.

male workers, reaching its peak in mid 70s.³³ The female workers' active engagement in labor struggles demonstrated their consciousness to break down the pervasive system of oppression and exploitation against women in Korean society. Despite the fierce struggle to fight for their rights, harsh state control of the labor movement and opposition from management and male workers prohibited female workers from achieving empowerment.

Further impediments to female worker's empowerment came with a change in the nation's industrial structure. From the mid-1980s, the dominant industry in South Korea shifted from the labor-intensive to the capital-intensive sector, causing the female labor movement to lose its momentum, for the struggles of male workers in heavy chemical industries gained more attention.³⁴ During this period, the form of trade unions in South Korea "changed from autonomous grass-roots unions to large enterprise unions controlled by male leadership."³⁵ Due to this transition, female workers' concerns and problems in the labor market continued to be overlooked by employers and the government.

As female workers lost their significance as major contributors to the nation's economy and thus the opportunity to voice their rights, their positions remained marginalized. Although the female labor participation rate was increasing, the phenomenon of the wide gap between female and male worker's wages, job segregation by sex, and longer working hours for women continued to prevail in the Korean labor market in the 1990s.³⁶ The rise of big conglomerates known as *chaebols* was another negative factor halting the elevation of female workers' status. They "benefited from low labor costs by segregating the female workers from male workers and giving them lower wages."³⁷ While the discrimination against female workers in workplaces was persistent, trade unions represented by male leadership were solely concerned with improving working conditions for men in industries dominated by

³³ Ibid.

³⁴ Kong, 222

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid., 224.

male workers.³⁸ In order to preserve jobs for male workers, the unions allowed the management to target female workers for layoffs in the time of financial crisis in 1997.

The dismissal of female workers in the period following the financial crisis clearly exhibited the underrepresentation of women in the workforce and their vulnerability. Female workers were targeted to resign “voluntarily” by their employers, especially those workers who were “from double-income families, or married, or had children.”³⁹ After the layoff, some were rehired by the same employer as temporary workers performing same job for less pay. The most notable examples of unfair dismissal of female workers were carried out by Chae-II Insurance and Nonghyup Bank in 1999. Chae-II demanded the female partners of 88 married couples working in the same company to resign voluntarily. The company mostly pressured the female workers for resignation, and threatened that their husbands would face disadvantages at work if they refused to accept the terms.⁴⁰ Similarly, 688 female workers at Nonghyup faced unfair dismissal due to the company’s need to lay off workers out of 762 couples whose partners both worked for Nonghyup.⁴¹

The financial crisis crowded female workers into temporary positions with little job stability. Between November 1997 and March 1999, the ratio of regular workers to total wage workers decreased by 22% among female workers, while it decreased by 10% among male workers.⁴² According to the research by Jaeho Gum, the probability of working in the same workplace for over 2 years was 74.5% for men and 58.2% for women prior to the financial crisis, yet they decreased to 59.3% and 46.2% respectively after the financial crisis, which

³⁸ Ibid.

³⁹ Ibid., 225.

⁴⁰ Korea Women’s Association United, “알리안츠 제일생명 사내부부 해고무효확인 소송 2심 승소 판결을 환영한다! [Welcoming the Decision Made by the Court Ruling in Favor of Couples Wrongfully Dismissed in Allianz Cheil Life Insurance],” KWAU, last modified February 26, 2002, <http://www.women21.or.kr/tc/issue/195>.

⁴¹ Jennifer Jihye Chun, *Organizing at the Margins: the Symbolic Politics of Labor in South Korea and the United States* (New York: Cornell University Press, 2009), 64.

⁴² Haejin Kim and Paula B. Voos, “The Korean Economic Crisis and Working Women,” *Journal of Contemporary Asia* 37, no.2 (2007): 195.

indicates that more than half of the female workers suffered frequent job transfer.⁴³ With regards to the number of job finders, male job finders decreased by 5.86% in 1998, and female job finders by 8.81%.⁴⁴ Considering those figures, it can be concluded that the financial crisis downgraded female workers' position in the labor market, showing a lack of legal or political mechanism that provided protection for female workers.

The reoccurrence of discriminatory dismissals of female workers was observed after the global economic crisis in 2008. The number of female workers fired throughout 2008 was four times as large as the number of dismissed male workers.⁴⁵ Moreover, the number of consultations made to women's organizations regarding unfair dismissal due to pregnancy or childbirth soared during that year. According to filed consultation records, the companies tried to dismiss female workers by giving no tasks to workers returning from maternity leave, including workers on the dismissal list while they were on maternity leave, and discontinuing the contract of workers who took maternity leave.⁴⁶ Furthermore, the number of female job finders decreased by 1.04% between year 2008 and 2009, whereas male job finders increased by 0.05%.⁴⁷

The accumulation of sequential events mentioned in this section has created a labor market hostile to female workers, especially those who need to leave the workplace temporarily for child-birth or childcare. The Confucian tradition legitimized oppression of women in not only within the domestic sphere but also at the workplace. The women-led unions in the mid 70s were first to openly confront the male authorities for their rights. However, a severe state control of women's union activities contained the spirit of gender

⁴³ Jaeho Gum and Jayoung Yoon, *외환위기이후 여성 노동시장의 변화와 정책과제 [Policy Agenda for Female Labor Market after the Financial Crisis]* (Seoul: Korea Labor Institute, 2011), 130.

⁴⁴ *Ibid.*, 11.

⁴⁵ Rosa Lee, "임신 출산은 곧 퇴출 여성차별 해고 심각[Grave Discrimination and Dismissal Against Women: Pregnancy and Childbirth Equal Lay-off]," *The Kyunghyang Shinmun*, March 16, 2009, http://news.khan.co.kr/kh_news/khan_art_view.html?artid=200903061816435&code=940100.

⁴⁶ Wonhyung Choi, "불황 때 배부르면 안되나요?[No Full Stomach During Recession?]," *The Hankyoreh*, February 25, 2009, <http://www.hani.co.kr/arti/society/women/340843.html>.

⁴⁷ Gum and Yoon, 11.

equality, prohibiting substantial elevation of women worker's status even after the democratization. During the times of economic downturn, women workers were primary sacrificial targets for layoffs. To sum up, female workers have been historically marginalized in South Korean labor market and they still remain vulnerable today.

III Difficulty of Utilizing Maternity and Childcare Leave

Although the women-led union movement failed to achieve substantial improvement in the marginal status of female workers, its legacy was carried on by the women's civil society groups that were formed during the democratic movement in the late 1980s. Like their predecessors, they asserted the necessity of change in the social and labor system that are hostile to women and female workers. Their struggle paid off with the enactment of the Equal Employment Act (EEA) in 1987, which first introduced childcare leave in South Korea, entitling working mothers who have a child less than one-year-old with a right to take a full year of unpaid leave. Under the civilian government of Kim Young Sam, the importance of protecting working mothers' rights was highlighted as the government focused on raising the social and economic standard of Korean society to join OECD. As a result, the EEA was amended in 1995 to include working fathers as leave takers.⁴⁸

A dramatic change in the leave system occurred in 2001, when the Labor Standards Act (which guarantees paid maternity leave), EEA, and Employment Insurance Act were amended simultaneously to achieve substantial improvement. The amendment of the Labor Standards Act extended the length of the maternity leave from 60 days to 90 days. The leave payment for the extended 30 days was to be subsidized by the employment insurance, plus 200,000 won of monthly financial subsidy for childcare leave. In the following years, further improvement of the leave system was made, allowing the employment insurance to cover full 90-day maternity leave payments for small and medium-sized firms and increasing the amount of financial subsidy of childcare leave from 200,000 won to 500,000 won by 2007.⁴⁹ The qualifying age-range of children was increased from 0 to 3 and subsequently to 6 in 2011.⁵⁰ Also, the amount of subsidy for the childcare leave is to be equated to 40% of the

⁴⁸ Ji Yeon Lee, "Analysis on the Policy-Making Process of the Maternity Assistance Policy in Korea," *Journal of Contemporary Society and Culture* 30 (January 2010): 98.

⁴⁹ *Ibid.*, 98-99.

⁵⁰ Ministry of Employment and Labor, Women's Employment Policy Division, 108.

monthly income of the leave taker with a cap of one million won.⁵¹

Despite continuous improvements made in the leave system with regard to the length and amount of financial subsidy, female workers still face great difficulty in fully utilizing maternity and childcare leave in the Korean labor market. The difficulty faced by female workers can be divided into two categories: structural and normative. With regard to structural difficulty, the usage of leave is discouraged due to structural constraints that limit the number of leave benefit receivers and workplace rules that prohibit usage of the leave system. On the other hand, the normative difficulty is caused by the workplace custom and culture that hinder female workers from taking the leave. Hereafter, two of the difficulties mentioned above will be discussed in depth, supported by both quantitative and qualitative data provided by government agencies, news reports and current scholarly research.

Structural Difficulty

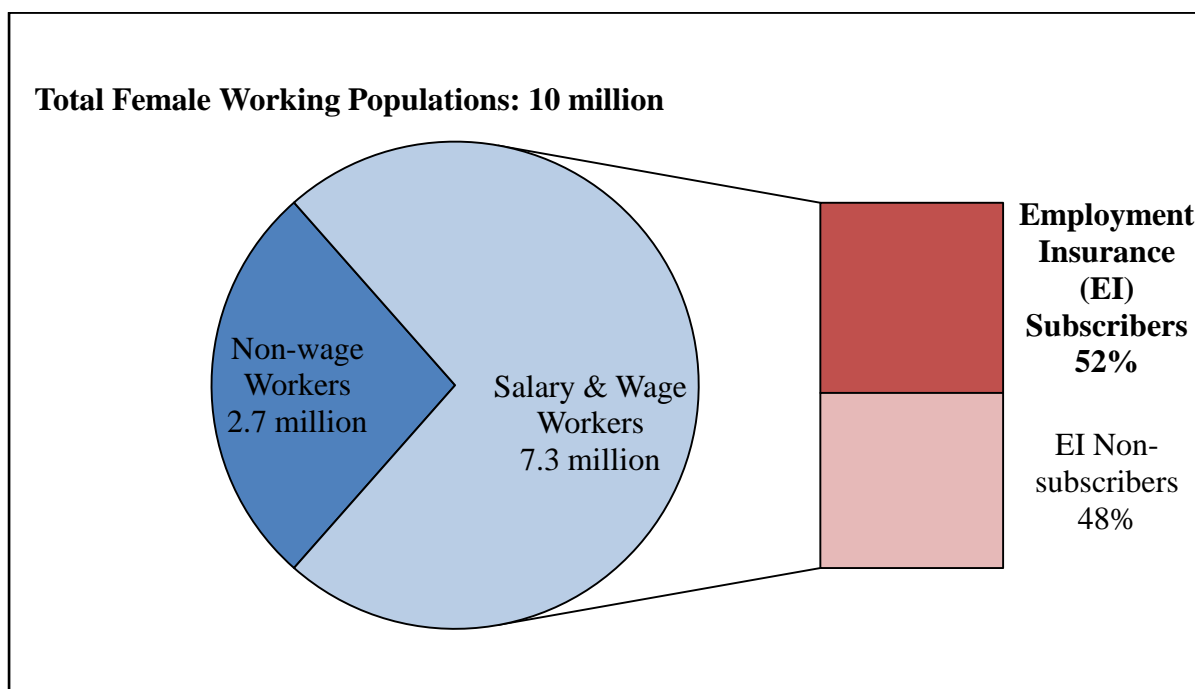
Considering that receiving the leave benefit is crucial among leave takers who will receive less or no income without payment from employment insurance during the leave period, structural obstacles that prohibit female workers from receiving the leave benefit can be treated equally as factors that impede women from taking the leave. The first and foremost structural obstacle that female workers face when they want to receive the leave benefit is conditions to qualify as a leave benefit applicant. Before female workers apply for either maternity or childcare benefit, they need to find out whether they fulfill two conditions that qualify them as legitimate applicants. They must have subscribed to employment insurance, and also for a certain period of time. The required subscription period differs for receiving maternity and childcare payments, yet even before a worker figures out how long she has been subscribed to the employment insurance, she might find out that she is not subscribed to

⁵¹ Jeong Soo Sun, “고용노동부의 황당한 육아휴직 급여 개정안[The Ministry of Employment and Labor’s Absurd Amendment of Childcare Leave Payment],” *Kumin Ilbo*, November 17, 2010, <http://news.kukinews.com/article/view.asp?page=1&gCode=kmi&arcid=0004339132&cp=nv>.

the employment insurance to begin with.

Out of 10 million working women in 2010, fewer than half are subscribed to employment insurance in Korea. According to the Employment Insurance statistics report in December 2010, the number of female workers subscribed to employment insurance was a mere 3.8 million.⁵² Under the current employment insurance system, self-employed and unpaid family workers are not qualified to apply for employment insurance, making most of the insurance subscribers salary and wage workers. However, there are approximately 7.3 million female salary and wage workers, which indicates that only about half of them are insurance subscribers (refer to Fig. II).⁵³ Moreover, although those 3.8 million workers fulfill the first condition to qualify as leave applicants, not all of them would also fulfill the second condition, the required period of subscription.

Figure II Current Condition of Employment Subscription among Female Workers



Source: Korea Statistic (2010), Employment Insurance Information Service (2011)

⁵² Korea Employment Information Service, “2010년 12월 고용보험통계 현황 [The Current State of Employment Insurance Statistics in December 2010],” last modified January 31, 2011, <http://www.keis.or.kr/>.

⁵³ Statistics Korea, “중사상 지위 별 여성취업자 구성비 [Composition of Female Workers by Work Status],” E-National Indicators, last modified February 11, 2011, <http://www.index.go.kr/>.

As mentioned earlier, the required subscription period of employment insurance differs for receiving maternity and childcare benefits. To apply for the maternity leave benefit, the pregnant worker must have been subscribed to employment insurance for over 180 days by the last day of maternity leave. If the pregnant worker were to take the full 90-day maternity leave, she should be able to prove that she was subscribed to the insurance for at least 90 days, in other words, that she was working for about three consecutive months. To apply for the childcare benefit, the worker must have been insured for 180 days before the starting day of the childcare leave, which requires about six months of continuous employment.⁵⁴ Three and six months of continuous employment might seem reasonable, yet in reality, many female workers cannot fulfill the second or even the first condition due to their status as non-regular workers.

Non-regular workers are employed with various names and conditions such as temporary, contract, dispatched, and daily workers, and they compose 50 to 60%* of the total female wage workers in Korea (*Statistics Korea: 52.7%⁵⁵; Korea Labour & Society Institute: 61%⁵⁶). Among non-regular workers, the rate of employment insurance subscription is significantly lower than that among regular workers. In 2009, the subscription rate of regular workers was 82.4%, whereas it was 37% for non-regular workers.⁵⁷ For non-regular workers, it is difficult to subscribe because of the short span of their employment period and also because employers often try to avoid incurring extra labor costs by paying their portion of insurance coverage for non-regular workers.⁵⁸

Among the non-regular workers who manage to subscribe to employment insurance,

⁵⁴ Young Ok Kim and Ki Tek Chun, “비정규직 여성 근로자의 산전후휴가 활용 및 노동시장 복귀실태[The Current Status of Non-regular Worker’s Utilization of Maternity Leave and Return to Workforce],” *노동 리뷰* [Labor Review] 2007, no.12: 49.

⁵⁵ Statistics Korea.

⁵⁶ Yu-san Kim, “비정규직 규모와 실태[The Current Status and Population of Non-Regular Employees]” (report, Korea Labour & Society Institute, June 2011), 3, <http://www.ksli.org/template/data/down.php?no=3349>.

⁵⁷ Yeon Myung Kim, “Re-examination of the Exclusion from Social Insurance Coverage of Non-Standard Employments in Korea,” *사회복지정책* [Social Welfare Policy] 37, No.4:157.

⁵⁸ Yeon Myung Kim, 169-170.

many would fail to fulfill the second condition, the required subscription period of the employment insurance, due to short period of their employment. Excluding daily workers, many non-regular workers have working contracts as short as one month or a year at the longest, thus many of them would not have three or six months of continuous employment. Even if the worker fulfills the subscription period and takes either maternity or childcare leave, their working contract might finish during their leave period. In such a case, they will no longer receive the leave benefit.

Under the Labor Standards Act that guarantees maternity leave, there is no minimum length of employment period that the worker should fulfill before applying for maternity leave. The Equal Employment Act states that employers are not legally accountable if they reject the childcare leave application submitted by a worker who has worked less than a year, yet technically, the worker can apply for the leave even if her employment period is less than a year. However, the exercise of statutory rights of female workers is obstructed by a limited pool of leave benefit receivers. The structural constraint imposed by the subscription to employment insurance and required subscription period significantly prohibits the bulk of the female working population, especially the non-regular workers, from accessing leave benefits, thereby discouraging them from taking maternity and childcare leave.

Moreover, some female workers are deprived of their right to apply for maternity and childcare leave because their workplace regulation forbids them from taking the leave or simply does not acknowledge their rights. Among female workers, those who work as non-regular workers or those who work in small firms tend to be subjected to such a workplace regulation. According to the survey conducted by Korea Women's Development Institute (KWDI) about the utilization of maternity leave for non-regular workers in 2007, one half of the 419 pregnant non-regular workers did not apply for maternity leave. About a third of those who did not apply responded that they did not, because their workplace regulation

forbids non-regular workers to take the maternity leave.⁵⁹ In Korea, non-regular workers face discrimination with regard to benefits and payment compare to regular workers, yet depriving them of the statutory right to use maternity leave is not only discriminatory but illegal.

A report released by KWDI in 2004 analyzed the research that investigated the implementation of maternal protection at workplaces and pointed out that smaller firms are more likely to have work regulations that forbid their workers from using the childcare leave than big businesses. Such a tendency was not reported with regard to maternity leave, yet the report mentions that the rate of workers who are taking maternity leave according to the legal standard is significantly lower in firms with 30 employees than those with more than 300 employees. Noting that 70% of firms in Korea employ fewer than 30 workers, it can be concluded that the majority of female workers are working in firms that do not comply the maternal protection laws.⁶⁰

Normative Difficulty

While female workers with temporary positions, working in small firms are most vulnerable to facing structural difficulty in using the leave system, every female worker, with the exception of those who are working in a handful of women-friendly workplaces, is subject to facing various degrees of difficulty caused by male-centric workplace culture. Although maternity and childcare leave are guaranteed by workplace regulation, female workers are not able to use the leave because of pressure from their bosses or colleagues who are not willing to support their motherhood. The unsupportive behavior is directly reflected in the evaluation and consideration for promotion of workers who have chosen to take the leave despite the pressure from bosses and colleagues. In the worst cases, female workers get wrongfully dismissed upon their application for maternity or childcare leave.

⁵⁹ Kim and Chun, 49.

⁶⁰ Korea Women's Development Institute. "우리나라 모성보호제도의 실시 현황 분석과 개선방안 연구결과[The Analysis of Current Implementation Status of Maternal Protection System and Research Highlight of Improvement Study]" (research report, KWDI, February 6, 2004), 2.

According to the survey conducted by Job Korea, more than half of 1,623 female workers conceded that the usage of maternity and childcare leave is made difficult by the pressure from bosses and colleagues. Moreover, the percentages of respondents who acknowledged that leave applicants face pressure to quit were 15.8% and 20.6% for maternity and childcare leave respectively.⁶¹ The pressure exercised by bosses and colleagues upon leave applicants through verbal comments can be as implicit as “don’t become a burden to your team,” or as bold as “your position will be gone by the time you return from the leave.”⁶²

However, a qualitative result of interviews with 71 workers from 21 companies that consist of working mothers, their co-workers, administrative managers, and human resource managers conducted by Samsung Economic Research Institute (SERI) reveals that a substantial number of administrators and co-workers feel they provide support for working mothers but are dissatisfied in the way working mothers tend to take their support and consideration for granted.⁶³ Although the survey does not specify what kind of support and consideration co-workers and administrators have provided for working mothers, the possible explanation for their dissatisfaction toward working mothers can come from the fact that those co-workers and administrators do not recognize the necessity or the outright legal rights that working mothers have to be supported by their workplace.

The following story from the Yonhap news article exemplifies the case where the boss believes that he is providing a generous support for his female worker who came back from a maternity leave, when in fact he merely provided the protection approved by the

⁶¹ Eunyong Kim, “女직장인 71.4% “男 동기보다 승진 오래 걸려[71.4% of Working Women Feel Their Promotion is Slower Than Their Male Colleagues],” *The Korea Economic Daily*, January 14, 2010, <http://www.hankyung.com/news/app/newsview.php?aid=201001140084g>.

⁶² Nayoung Kim-Yun, “임신은 곧 해고... 정부는 말로만 '저출산' 타령 [Being Pregnant Means Being Fired Government Only Harps on Low Birth Rate],” *Pressian*, March 3, 2011, http://www.pressian.com/article/article.asp?article_num=30110301225329.

⁶³ Samsung Economic Research Institute, “대한민국 워킹맘 실태보고서 [Report on the Current Condition of Korean Working Moms],” *CEO Information*, 771 (September 2010):9.

legislature. Ms. Lee, a manager in a home shopping company, was stunned at her boss demanding her to be grateful that he protected her job while she was away when she returned to work from three months maternity leave. Although her boss's comment made Ms. Lee uncomfortable, she knew that she was fortunate, compared with many other workers who lost their jobs after they came back from the leave. Ms. Lee thinks it is impossible to use the one-year parental leave in such a workplace.⁶⁴

The Chosun Ilbo reports of cases where pregnant workers receive no support and consideration from the workplace. Ms. Ahn, a seven-month pregnant worker at small business firm, received e-mail from her boss demanding every staff member to work until 10 pm and also come to work on Saturdays for a certain period of time with no exception. Ms. Ahn wishes to claim her right to be protected as a pregnant worker and refuse such a demand, yet she believes it will weaken her position in the workplace. Another pregnant worker Ms. Kim was given a notice to quit her job at an online music industry firm when she was getting ready to take the maternity leave. The human resource manager explained that the firm is downsizing due to financial difficulty, thus Ms. Kim should quit her job since the 90-day leave period is too long. Ms. Kim asserted that she will consider leaving the firm after she returns from her maternity leave, yet the manager simply notified her to quit with a payment of a two-month salary.⁶⁵

Furthermore, the lack of support or disapproval of the usage of the leave system in the workplace is demonstrated through unfair evaluation of working mothers, which impedes their career progression. In a survey conducted by SERI, 42.2% of the 1,931 working mothers surveyed referred to disadvantages in promotion and work evaluation as the biggest difficulty

⁶⁴ Yonhap News, “저출산 시간이 없다: 육아휴직은 그림의 떡 [Childcare Leave is a Pie in the Sky],” *Yonhap News*, November 30, 2009,

<http://www.yonhapnews.co.kr/bulletin/2009/11/26/0200000000AKR20091126177300026.HTML>.

⁶⁵ Suhyun Choi and Donsup Kim, “분만휴가·육아휴직 때 눈치 안보게 해주세요 [Pleading to be Freed from Pressure When Taking Maternity and Childcare Leave],” *ChosunIlbo*, October, 13, 2007, http://www.chosun.com/site/data/html_dir/2007/10/13/2007101300034.html.

that they face in the workplace. One working mother in a manufacturing industry confessed that she did not reveal her pregnancy until the 5th month because she was afraid of receiving an unfair work evaluation. During her pregnancy, she went on an overseas business trip despite her doctor's warning.⁶⁶ Although not outlined as a written rule, female workers receive low evaluations during or after they return from maternity and childcare leave.⁶⁷ Moreover, on the issue of lack of utilization of the leave system and other legal protections for working mothers such as flex time, 44.1% of the respondents agreed that the pressure from the boss prohibits working mothers from taking advantage of the available system and protection.⁶⁸

The circumstance remains similarly difficult for women in managerial positions. According to the third Korean Women Manager Panel in 2010, only 35.8% of those managers who qualify to apply for the childcare leave used it. Among those who did not apply, one fourth responded that they could not apply for the leave even though it is guaranteed in the workplace regulation, since it is customary not to apply for the leave according to the workplace culture. Other reasons included fear for disadvantages in career progression (13.1%) and pressure from boss and colleagues (12.6%).⁶⁹ With regard to maternity leave, about 96% of the pregnant managers in the panel applied for the leave. While their application rate is remarkably high, some of these managers faced disadvantages after they returned to the workplace. The most notable disadvantages were change of task (45.8%), unfair reward and evaluation of their work (31.7%) and pressure to quit (15.5%).⁷⁰ For some managers who used childcare leave and returned to the workplace, delay in promotion (54.4%) and change of task (25.5%) were the most common problems. Such results indicate

⁶⁶ Samsung Economic Research Institute, 6.

⁶⁷ Nayoung Kim-Yun.

⁶⁸ Samsung Economic Research Institute, 8.

⁶⁹ Korea Women's Development Institute, *KWMP: Korean Women Manager Panel* (Seoul: Ministry of Gender Equality and Family, Women's Resources Development Division, December 2010): 119.

⁷⁰ *Ibid.*, 117.

that the female workers, regardless of their rank, position and job status experience difficulty in using maternity and childcare leave.

Although the lawmakers designed the maternity and childcare leave system to provide adequate support for female workers who inevitably have to leave the job market in order to give childbirth or commit to childrearing, the structural and normative difficulties obstruct working women from benefiting from the system. Being able to apply for and use government subsidized maternity and childcare leave is not a special privilege, but an entitled right of female workers. However, in reality more than half of the female working population loses this entitlement due to the requirement to subscribe to employment insurance for a certain period of the time. Even those who fulfill the requirement are unable to apply for the leave because of work regulations, workplace pressure, and possible job insecurity that arises from the usage of leave. The structural limitation in using maternity and childcare leave can be mitigated through measures such as shortening the required subscription period and promoting the insurance subscription among non-regular workers. Perhaps, it is more challenging to tackle the normative difficulty, which requires a change in the male-centric workplace culture and in the way bosses and colleagues think about maternal protection.

IV Internalizing Norm of Protecting Working Mothers

The examination of the difficulties female workers have in using maternity and childcare leave clearly suggests that the rights of female workers are neglected and marginalized in the Korean labor market. The most fundamental obstacle that impedes female workers from exercising their entitled rights lies in the sexist workplace environment that is unsupportive of the usage of maternity and childcare leave. To remove such an obstacle, the norm of protecting working mothers needs to be internalized in the workplace.

If workplaces operate on norms whereby childbearing and childrearing are personal matters which require sacrifice of female workers' careers, the statutory protection of working mothers will continue to be violated. Then, it is necessary for government, labor unions and women's organizations to persistently pressure workplaces to adopt the norm of protecting working mothers. In this final section, I intend to examine whether those three change agents mentioned above have made any significant efforts to allow female workers to use their entitled rights in workplaces, and to recommend how their roles can be improved in the future.

In the past, the military governments severely oppressed female workers and created a labor market condition that segregated them as secondary workers. However, with the democratization that occurred after 1987, the government started to address the problem of gender inequality in the labor market and implemented a series of legislative measures to protect female workers whose careers can be disconnected due to childbearing and childrearing, as well, the government finally socialized the cost of the maternal benefits by subsidizing the maternity and childcare leave payment through employment insurance in 2001. Although the governments that succeeded the military regimes displayed willingness to improve female workers' conditions, some more than others, they have always waited until

they faced the mounting pressure and demands from women's organizations.⁷¹ Nevertheless, government responding to the pressures of women's organizations was a significantly positive change compared to its role in the past as an oppressor and exploiter of female labor.

However, the female worker's status has been demoted as the government allowed the forces of the free-market economy and globalization to exploit female workers as cheap temporary laborers, making the majority of female workers ineligible to apply for the maternity and childcare benefits. Although the fourth clause of Article 32 of the Constitution of Republic of Korea explicitly states that "special protection shall be accorded to working women and they shall not be subjected to unjust discrimination in terms of employment, wages and working conditions," the government has done little to provide such protection in reality.⁷² It is only during recent years when the birth rate started to decline to one of the lowest in the world that the government began to pay significant attention to protection of working mothers as one of the measures of its natal policy.

Within the government, Ministry of Employment and Labor (MOEL), Ministry of Health and Welfare (MW), and Ministry of Gender Equality & Family (MOGEF) are key organizations involved in promoting the balance between work and family life for working mothers. To investigate the specific functions that these ministries assume in the protection of motherhood in the workplace, I have conducted a set of phone interviews with the relevant divisions within these ministries. Under MW, the Division of Population Policy is responsible to launch campaigns to improve workplace culture to be friendly to the work-life balance. One of the most significant promotional activities that MW carried out in 2011 includes periodic meetings that the minister hosts to talk about the importance of change in workplace

⁷¹ Kyunghye Kim and Imryang Ryu, "Women's Movement and Institutionalization of Work-Life Balance," in *Work, Family, Gender: Industrialization and Work-Family Dilemma of Korea*, ed. Isoo Kang (Seoul: Hanul, 2009):419-429.

⁷² National Assembly, "Constitution of the Republic of Korea," Korean Ministry of Government Legislation <http://law.go.kr/lisInfoP.do?lsiSeq=61603&urlMode=engLsInfoR&viewCls=engLsInfoR#0000>.

culture to achieve work-life balance to the CEOs of prominent companies.⁷³ Under MOGEF, the Family Policy Division is currently working on expanding childcare services across the nation.⁷⁴ Under MOEL, the Women's Employment Policy Division is in charge of enforcing and monitoring the implementation of maternity and childcare leave in the workplace.⁷⁵

As implied by the names of the relevant divisions, MW and MOGEF are supporting work-life balance of female workers as part of family and population policy, leaving MOEL as the only organization under government that is purely dedicated to the protection of female workers' rights. However, the current role that MOEL plays to enforce and monitor the usage of leave is far from sufficient. Twice a year, MOEL monitors workplaces where the majority of workers are females in their compliance to the maternal protection measures provided by the Labor Standards Act such as menstrual leave, maternity leave, and working time limits for pregnant workers. During 2006 to 2009, MOEL inspected a total of 5,973 workplaces selected by local labor districts and 1,753 cases found breaching the Act. However, judicial action was taken in only one case. The remaining infringements, which include 248 cases that violated the law regarding maternity leave, resulted only in advice to rectify their violation.⁷⁶

Mr. Dong Hyun Kim from Women's Employment Policy Division of MOEL explained that workplaces that violated law regarding maternal protection go unpunished for a reason. If judicial action is taken in a particular case, the female worker who has been the victim in that case faces difficulty in continuing her job in the same workplace. Also, Mr. Kim mentioned that harsh judicial actions can discourage firms from hiring female workers. Moreover, he points out that some workplaces are simply not aware whether they are breaking the law or not. Thus, he claims that it is best to rectify the violations in workplaces

⁷³ Official (Division of Population Policy, Ministry of Health and Welfare), telephone interview by author, August 26, 2011.

⁷⁴ Official (Division of Family Policy, Ministry of Gender Equality & Family), telephone interview by author, August 26, 2011.

⁷⁵ Dong Hyun Kim (Women's Employment Policy Division, Ministry of Employment and Labor), telephone interview by author, August 26, 2011.

⁷⁶ Ministry of Employment and Labor, Women's Employment Policy Division, 102.

rather than to punish them according to the law.⁷⁷

Nonetheless, if no judicial action is taken against those workplaces that violate the statutory rights of female workers, the law loses its significance and purpose. Both maternity and childcare leave regulations include a punitive measure in the case when the employer denies the right of a female worker to use the leave or wrongfully dismisses the female worker during the leave period or job-guaranteed period. When maternity leave or payment is not provided by the employer, the employer will serve up to 2 years in prison or pay a ten million won fine. Furthermore, the second provision of Article 30 of the Labor Standards Act places a 30-day prohibition on employers from dismissing their female workers who have returned to the workplace from a maternity leave. The employer who breaks the law can face up to 5 years in prison or a maximum thirty million won fine.⁷⁸ With regard to childcare leave, the punitive measures are clearly stated in the clauses of the Equal Employment Act. The penalty for rejecting an application for childcare leave is up to five million won, and the employer who wrongfully dismisses the worker due to childcare leave will serve up to 3 years in prison or pay a twenty million won fine.⁷⁹

To get away without being punished, firms tactfully fire the workers returning from leave after the job guaranteed period expires or pressure them to quit implicitly by assigning irrelevant tasks or no tasks at all. When firms are already bending the law through loopholes, it does not seem plausible to merely rectify clear and obvious legal violations that workplaces have committed. Not holding those firms accountable for what they have done will deliver the message that denying the legal rights of female workers has no severe consequences. Although Mr. Kim of MOEL stated that taking no legal action is for the benefit of the female

⁷⁷ Dong Hyun Kim (Women's Employment Policy Division, Ministry of Employment and Labor).

⁷⁸ Ministry of Employment and Labor, “산전후휴가 [Maternity Leave],” MOEL, last modified 2010, <http://www.moel.go.kr/policyinfo/woman/view.jsp?cate=3&sec=3#axzz18RzPtWBR>.

⁷⁹ Ministry of Employment and Labor, “Enforcement Decree of the Act on Equal Employment and Support for Work-family Reconciliation,” MOEL, last modified 2011, http://www.moel.go.kr/english/topic/laborlaw_view.jsp?idx=224&tab=Equal.

workers, it might hurt the overall protection of female workers in the long run.

Other than monitoring a few hundred workplaces twice a year, MOEL relies on female workers to file a report against their employer who has violated their right to use the maternity and childcare leave. However, in reality, it is difficult for the workers to report their employers and take legal actions against them because such an action can jeopardize their jobs. According to the article of JoongAng Daily newspaper reported in April 2011, one official from the Ministry of Employment and Labor claims that there has not been a single report of an employer who has rejected the application of childcare leave. Consequently, no workplace has been punished for denying the worker's right to use childcare leave.⁸⁰

When asked to confirm such a claim, Mr. Kim of MOEL said the ministry does not keep the record of reports filed against employers because they are submitted to local labor districts.⁸¹ Therefore, I contacted one of the local labor districts to find out how many reports have been submitted by female workers regarding the violation against maternity and childcare leave regulations. The labor officer explained that none of the reports are categorized into types of violations that employers have committed, thus it is not possible to figure out the total number of reports that are being filed of a particular violation in local labor districts across the nation nor how each report has been dealt with. When I asked whether there was any possibility of adapting the filing system in which one can track down the reports by a certain type of violation, the labor officer replied that MOEL has the authority to make such a decision.⁸² Based on such facts, it can be concluded that MOEL lacks genuine interest in investigate the severity of the violation against maternal protections at workplace.

In search of more information about the government's effort in enforcing maternal

⁸⁰ Suyoung Kim, “말뿐인 육아휴직...일자리 담보로 휴직해야 할 관[Empty Promise of Childcare Leave...Workers Have to Mortgage Their Career to Take a Leave],” *JoongAng Daily*, April 30, 2011, http://article.joinsmsn.com/news/article/article.asp?total_id=5425945&cloc=rss%7Cnews%7Csociety.

⁸¹ Dong Hyun Kim (Women's Employment Policy Division, Ministry of Employment and Labor).

⁸² Labor Officer (Kyonggi Local Labor District), telephone interview by author, August 26, 2011.

protections at workplaces, I have interviewed Jinhyup Choi, an activist at Korean Women Link. Korean Women Link is a prominent women's organization that emerged out of the democratization movement in the late 1980s. The organization promotes gender equality in social, economic and political arenas, and it was one of the key players in exercising collective bargaining power to demand government to socialize the cost of maternity and childcare leave payments in 2000. Also, Korean Women Link operates an equal employment counseling service for women, whose rights have been violated in workplaces, including the usage of maternity and childcare leave.⁸³

Choi commented that the government's attitude in enforcing the leave-related regulations is lukewarm and passive: "We have perfunctory meetings with the Ministry of Employment and Labor to report about the cases of wrongful dismissal and treatment of female workers regarding the usage of maternity and childcare leave. However, they do not seem to understand the seriousness of the problem . . . I wish that they (Ministry of Employment Labor) would go out to workplaces more often to perform on-the-spot inspection and punish those employers that violated their workers' rights instead of relying on our report."⁸⁴

Driven by facts mentioned above, MOEL has not been active in the enforcement of leave-related regulations. The government needs to carry out more frequent inspection of workplaces for both maternity and childcare leave, and punish violators according to law. Moreover, they have to establish a system where they can grasp the number of grievance reports that are filed by employees against their employers regarding the violation of leave-related regulations. The government can no longer be tepid and ambiguous about enforcing maternal protections at workplaces. They have ratified the system, thus they are also responsible to implement the system and deal with those who do not comply.

⁸³ Korean Women Link, "민우회는 [About Korean Women Link]," http://www.womenlink.or.kr/about_01.php.

⁸⁴ Jinhyup Choi (activist, Korean Women Link), in discussion with the author, June 25, 2011.

The labor union is another change agent that can force employers to protect their workers' rights. Ideally, the labor union should exercise collective bargaining power to represent the voice of all workers regardless of gender and job status.⁸⁵ However, as mentioned in the prior chapter, current labor unions are mostly controlled by salaried male workers, and there is little room for female workers' voices to be heard. In 2009, there were 1,640,334 workers belonging to 4,689 different labor unions. Out of total members, male membership accounted for 79%, whereas female membership was a mere 21%.⁸⁶ Moreover, the ratio of female membership in the Korean Confederation of Trade Unions (KCTU) and Federation of Korean Trade Unions (FKTU), both serving as major labor union groups in South Korea, was 25% and 18% respectively.⁸⁷ Although these two big organizations exercise great bargaining power, they rarely practice it to protect the rights of female workers.

Frustrated with male-dominated unions' failure to represent female workers' interests, women workers organized their own unions such as Seoul Women's Trade Union (SWTU), Korean Women's Trade Union (KWTU), and Korean Women's Confederation of Trade Unions (KWCTU).⁸⁸ However, KWCTU is "a mere token women's organization" within KCTU that has no real power and remains inactive.⁸⁹ Therefore, there are two active women's trade unions, and both of them represent the voices of non-regular and unemployed female workers. These women-only unions have been legally recognized by the government, yet their bargaining power is limited due to the small membership and legitimacy to enforce workplaces to respond to their demand as secondary unions.⁹⁰ Although KWTU regularly

⁸⁵ Alice H. Cook et al, "Introduction and Setting," in *The Most Difficult Revolution: Women and Trade Unions* (New York: Cornell University Press), 8.

⁸⁶ Korean Association of Organizational Studies. "2009년 전국노동조합 조직현황 분석 [Analysis of Organizations of National Labor Unions in 2009]" (report submitted to Ministry of Employment and Labor, KAOS, June, 2010), 14.

⁸⁷ Ibid., 16-17.

⁸⁸ Kong, 228.

⁸⁹ Ibid., 229.

⁹⁰ Kaye Broadbent, "Women's Organizing Strategies: Women-only Unions in Japan and Korea" (conference paper, The 2005 AIRAANZ conference, February 2005), 82, <http://airaanz.econ.usyd.edu.au/papers/Boradbent.pdf>.

engages in collective bargaining, their bargaining agenda is mostly about wages, working conditions and insurance subscription.⁹¹

Utilization of maternity and childcare leave is an issue that universally affects female workers who plan to give birth or raise a child regardless of job status and types. The current form of women-only unions represents only the most marginalized female workers, thus they cannot become a proper channel to voice the rights of all female workers. Instead of women-only labor unions, women's organizations have been active forces in representing the female workers of all kinds. They have been the major change agents in improving the condition of female workers in the Korean labor market, as well as creating awareness of struggles faced by female workers.

The formation of a grand coalition has been the most effective method taken by the women's organizations to pressure the government to respond to an agenda that addresses the improvement of female worker's conditions. In June 2000, several women's organizations, the two biggest labor union groups (KCTU and FKTU), and women's labor unions (KWTU and SWTU), have formed a grand coalition to demand the amendment of labor laws to improve female workers' rights.⁹² The grand coalition was successful in pressuring the government collectively, and their activity led to the major amendment of laws relevant to protection of working mothers as mentioned in the earlier chapter. Although such a method appears to be powerful and effective, forming a coalition and making a collective demand to the government can be an exhausting process. Choi of Korean Women Link said, "To reach a consensus among all parties of coalition, it takes a lot of time and energy...all the organizations agree on the big picture of improving female worker's rights, but each has different ideas of how it wants it to happen...However time consuming the process may be, I believe it is the most effective method to make the government respond to the problems that

⁹¹ Ibid.,81.

⁹² Lee, "Analysis on the Policy-Making Process of the Maternity Assistance Policy in Korea," 102.

female workers face.”⁹³

Although the collective action approach has been successful in the past, it is not guaranteed that it will continue to be successful. When women’s organizations noted that female workers were being unfairly dismissed after the global economic crisis, they tried again to form a grand coalition to pressure the government in protecting female workers. However, the coalition movement has not been taken seriously by the government, thus it was not able to generate any meaningful outcome.⁹⁴ A sizable coalition of civil society groups and labor organizations might influence the government, yet their success also depends whether the government in power is willing to respond to their demand or not.

It will take a combined effort of government, labor unions and women’s organizations to internalize the norm of protecting working mothers in the Korean labor market. The government needs to strengthen its role in monitoring and punishing workplaces that neglect female workers’ rights to use maternity and childcare leave. The labor unions should take consideration of the interests of female workers in their workplaces as well as male workers, and represent both with fairness. Moreover, labor union groups can continue to work with women’s organizations in improving female worker’s rights, as well as persuading the member unions to adopt protection of female workers as one of their key agendas in their workplaces. Women’s organizations can raise social awareness of the difficulty of utilizing maternity and childcare leave and pressure the government to intensify the enforcement of related law. Furthermore, they can strengthen their power by increasing their membership. In order to do so, women’s organizations need to demonstrate that protection of female worker’s rights is not only beneficial to female workers alone but to society as a whole.

⁹³ Jinhyup Choi (activist, Korean Women Link), in discussion with the author, June 25, 2011.

⁹⁴ Ibid.

V Conclusion

This paper examined the historical context of marginalization of Korean female workers, the predicament they face in using maternity and childcare leave, and the roles government, labor unions, and women's organizations can play in order to internalize the norm of protecting working mothers. Out of three change agents, the role of government is extremely crucial, for labor unions and women's organizations have limited power in influencing all workplaces.

After all, it was the government that reinforced the sexist cultural norm at the workplace by exploiting and oppressing the women workers during the developmental years. While women sacrificed themselves for the economic growth of the nation, the civilian governments after military rule did not make any significant contribution in elevating female workers' status. They have been playing a passive role, implementing measures to protect female workers only when they were pressured by mounting demands from the women's organizations. Therefore, the government needs to finally assume an active role to create a friendly labor market condition for working women by enforcing the leave regulations through persistent monitoring.

However, it is uncertain whether the Korean government has the right attitude to protect working women's rights. It was only during recent years with the birth rate plummeting to one of the lowest in the world that the government started to pay attention to the issue of balancing work and motherhood for women. Although enforcing maternal protection at the workplace with an aim to boost birthrate seems harmless, the protection should not be heavily emphasized as one of pro-natal policy measures, for it reiterates the traditional norm that confines women's role as mother and caretaker. The government needs to understand the risk of placing the protection of female worker's rights under the context of pro-natal measure and should treat the enforcement of maternal protection at workplace as a

measure to empower women in male-centric organizations.

With a dearth of female decision makers in the government, the government might not learn to separate the issue of maternal protection at workplace and the population crisis. Then, it is up to female workers to demand the government to treat them as members of society who deserve the same career opportunities as their male counterparts rather than reproductive machines that can supply future labor to sustain the nation's economic growth. Moreover, while women's organizations can continuously pressure the government to learn the reality of the difficulty female workers face in exercising their legal rights, individual female workers should not remain silent but ask their rights to be respected at their workplaces. If they believe that the government is not monitoring and adequately punishing those workplaces that violate their rights, they should demand the government to assume those roles.

An older generation of female workers was pressured to retire upon marriage or childbearing. Although not as explicit, the female workers currently in the labor market are still confronting the same pressure due to lack of change in the male-centric workplace culture. Without active involvement of change agents, the organizational culture of Korean firms will remain as gender-discriminatory as it has been for past half a century. When the government, labor unions, and women's organizations simultaneously tackle the old norm and internalize the norm of protecting working mothers, more and more women will be able to break the glass ceiling and advance into top management positions, which will further solidify the newly internalized norm. Through repetition of such steps, the elevation of women's status in society will be achieved and women will no longer be forced to choose between motherhood and their career.

BIBLIOGRAPHY

- Broadbent, Kaye. "Women's Organizing Strategies: Women-only Unions in Japan and Korea." Conference paper, The 2005 AIRAANZ conference, February 2005.
- Chang, Jiyeun. "Changes of Maternity Leave Policies and Women as Workers: Focusing on the so-called 'Maternity Protection Law' in 2001." *여성연구* [Women's Research] 66 (Spring 2004): 5-40.
- Chichilnisky, Graciela. "The Gender Gap." *Review of Development Economics* 12, no. 4 (November 2008): 828-844.
- Choi, Wonhyung. "불황 때 배부르면 안되나요? [No Full Stomach During Recession?]." *The Hankyoreh*, February 25, 2009. <http://www.hani.co.kr/arti/society/women/340843.html>.
- Choi, Suhyun and Donsup Kim, "분만휴가 · 육아휴직 때 눈치 안보게 해주세요 [Pleading to be Freed from Pressure When Taking Maternity and Childcare Leave]." *ChosunIlbo*. October, 13, 2007. http://www.chosun.com/site/data/html_dir/2007/10/13/2007101300034.html.
- Chun, Jennifer Jihye. *Organizing at the Margins: the Symbolic Politics of Labor in South Korea and the United States*. New York: Cornell University Press, 2009.
- Cook, Alice H., Val R. Lorwin and Kaplan Daniels. *The Most Difficult Revolution: Women and Trade Unions*. New York: Cornell University Press, 1992.
- Drago, Robert W. *Striking a Balance: Work, Family, Life*. Boston: Dollars & Sense, 2007.
- Gum, Jaeho and Jayoung Yoon. *외환위기이후 여성 노동시장의 변화와 정책과제* [Policy Agenda for Female Labor Market after the Financial Crisis]. Seoul: Korea Labor Institute, 2011.
- Finnemore, Martha and Kathryn Sikkin, "International Norm Dynamics and Political Change." *International Organization* 52, no.4 (Autumn 1998): 887-905.
- Jung, Hyunback. "The Lives and Mentalities Through Autobiographies of Female Workers." *여성과 역사* [Women and History] 1(2004):1-35.
- Kim, Haejin and Paula B. Voos. "The Korean Economic Crisis and Working Women." *Journal of Contemporary Asia* 37, no.2 (2007): 190-208.
- Kim, Kyungjoo. "A Policy Network Analysis of Maternity Assistance Policy-making in the Kim Dae Jung Administration." *한국행정학보* [The Journal of Korean Public Administration] 37, no3 (Fall 2003): 23-44.
- Kim, Kyunghee and Imryang Ryu. "Women's Movement and Institutionalization of Work-Life Balance." in *Work, Family, Gender: Industrialization and Work-Family Dilemma of Korea*, edited by Isoo Kang, 419-429. Seoul: Hanul, 2009.
- Kim, Mikyoung. "South Korean Women Worker's Labor Resistance in the Era of Export-oriented Industrialization." *Development and Society* 32, no.1 (June 2003): 77-101.

- Kim, Soh-yeong. "The Legal Regulation of Wrongful Dismissal in Korea." *Comparative Labor Law & Policy Journal* 25, no.4 (Summer 2004): 535-560.
- Kim, Suyoung. "말뿐인 육아휴직...일자리 담보로 휴직해야 할 판[Empty Promise of Childcare Leave... Workers Have to Mortgage Their Career to Take a Leave]." *JoongAng Daily*, April 30, 2011.
http://article.joinsmsn.com/news/article/article.asp?total_id=5425945&cloc=rss%7Cnews%7Csociety.
- Kim, Yeon Myung. "Re-examination of the Exclusion from Social Insurance Coverage of Non-Standard Employments in Korea." *사회복지정책 [Social Welfare Policy]* 37, No.4:155-179.
- Kim, Young Ok and Ki Tek Chun. "비정규직 여성 근로자의 산전후휴가 활용 및 노동시장 복귀 실태[The Current Status of Non-regular Worker's Utilization of Maternity Leave and Return to Workforce]." *노동 리뷰 [Labor Review]* 2007, no.12: 48-63.
- Kim, Yu-san. "비정규직 규모와 실태[The Current Status and Population of Non-Regular Employees]." Report, Korea Labour & Society Institute, June 2011.
<http://www.ksli.org/template/data/down.php?no=3349>.
- Kim-Yun, Nayoung. "임신은 곧 해고... 정부는 말로만 '저출산' 타령 [Being Pregnant Means Being Fired ...Government Only Harps on Low Birth Rate]." *Pressian*, March 3, 2011.
http://www.pressian.com/article/article.asp?article_num=30110301225329.
- Korea Employment Information Service. "2010년 12월 고용보험통계 현황 [The Current State of Employment Insurance Statistics in December 2010]." KEIS. Last modified January 31, 2011. <http://www.keis.or.kr>.
- Korea Women's Association Unite. "알리안츠 제일생명 사내부부 해고무효확인 소송 2심 승소 판결을 환영한다! [Welcoming the Decision Made by the Court Ruling in Favor of Couples Wrongfully Dismissed in Allianz Cheil Life Insurance]." KWAU. Last modified February 26, 2002. <http://www.women21.or.kr/tc/issue/195>.
- Korea Women's Development Institute. "우리나라 모성보호제도의 실시 현황 분석과 개선방안 연구결과[The Analysis of Current Implementation Status of Maternal Protection System and Research Highlight of Improvement Study]." Research report, KWDI, February 6, 2004.
- Korean Association of Organizational Studies. "2009년 전국노동조합 조직현황 분석 [Analysis of Organizations of National Labor Unions in 2009]." Report submitted to Ministry of Employment and Labor, KAOS, June, 2010.
- Korean Women Link. "민우회는 [About Korean Women Link]." http://www.womenlink.or.kr/about_01.php.
- Kong, Gina. "Are Women-only Trade Unions Necessary in South Korea? A Study of Women Workers' Struggles in Korea's Labor Market." *Northwestern Journal of International Law & Business* 29(2009): 217-242.

- Lee, Ji Yeon. "Analysis on the Policy-Making Process of the Maternity Assistance Policy in Korea." *Journal of Contemporary Society and Culture* 30 (January 2010): 91-107.
- Lee, Key Woo, Kisuk Cho and Sun Ju Lee. "Causes of Gender Discrimination in Korean Labor Market." *Asian Journal of Women's Studies* 7, no.2 (2001):7-38.
- Lee, Rosa. "임신 출산은 곧 퇴출 여성차별 해고 심각[Grave Discrimination and Dismissal Against Women: Pregnancy and Childbirth Equal Lay-off]." *The Kyunghyang Shinmun*, March 16, 2009.
http://news.khan.co.kr/kh_news/khan_art_view.html?artid=200903061816435&code=940100.
- Lee, Tae-young. "Elevation of Korean Women's Rights." *Korea Journal* 4, no. 2 (1964):4-9, 43.
- Ministry of Employment and Labor. "Enforcement Decree of the Act on Equal Employment and Support for Work-family Reconciliation." MOEL. Last modified 2011.
http://www.moel.go.kr/english/topic/laborlaw_view.jsp?idx=224&tab=Equal.
- . "산전후휴가 [Maternity Leave]." MOEL. Last modified 2010.
<http://www.moel.go.kr/policyinfo/woman/view.jsp?cate=3&sec=3#axzz18RzPtWBR>.
- Ministry of Employment and Labor, Women's Employment Policy Division. *여성과 취업 2010년도* [2010 Women and Work]. Gwacheon: Ministry of Employment and Labor, December 2010.
- Monk-Turner, Elizabeth and Charlie G. Turner. "South Korean Labor Market Discrimination Against Women: Estimating its cost." *American Journal of Economics and Sociology* 53, no. 4 (October 1994):432-442.
- Moon, Kyoung-Hee. "Integration of Women into Development: Women's Working Conditions in the Korean Textile and Apparel Industries." *Labour and Management in Development Journal* 4, no.1 (2003): 1-15.
- Nam, Jeong-Lim. "Women's Role in Export Dependence and State Control of Labor Unions in South Korea." *Women's Studies Int. Forum* 17, no.1 (1994): 57-67.
- National Assembly. "Constitution of the Republic of Korea." Korean Ministry of Government Legislation.
<http://law.go.kr/lInfoP.do?lsiSeq=61603&urlMode=engLsInfoR&viewCls=engLsInfoR#000>.
- Organization for Economic Cooperation and Development. "Labor Force Statistics by Sex and Age." OECD. Accessed August 6, 2011.
http://stats.oecd.org/Index.aspx?DataSetCode=LFS_SEXAGE_I_R.
- Park, Kyung Ae. "Women and Development: The Case of South Korea." *Comparative Politics* 25, no.2 (January 1993): 127-145.
- Samsung Economic Research Institute. "대한민국 워킹맘 실태보고서 [Report on the Current

Condition of Korean Working Moms].” *CEO Information*, 771, September 2010:1-23.

Seguino, Stephanie. “Gender Wage Inequality and Export-Led Growth in South Korea.” *The Journal of Development Studies* 34, no.2 (December 1997): 102-132.

Statistics Korea. “종사상 지위별 여성취업자 구성비 [Composition of Female Workers by Work Status].” E-National Indicators. Last modified February 11, 2011.
<http://www.index.go.kr/>.

Sun, Jeong Soo. “고용노동부의 황당한 육아휴직 급여 개정안[The Ministry of Employment and Labor’s Absurd Amendment of Childcare Leave Payment].” *Kumin Ilbo*, November 17, 2010. <http://news.kukinews.com/article/view.asp?page=1&gCode=kmi&arcid=0004339132&cp=nv>.

Sung, Sirin. “Women Reconciling Paid and Unpaid Work in a Confucian Welfare State: The Case of South Korea.” *Social Policy & Administration* 37, no.4 (August 2003):342-360.

Yonhap News. “저출산 시간이 없다: 육아휴직은 그림의 떡 [Childcare Leave is a Pie in the Sky].” *Yonhap News*, November 30, 2009.
<http://www.yonhapnews.co.kr/bulletin/2009/11/26/0200000000AKR20091126177300026.HTML>.

<Interviews>

Choi, Jinhyup (activist, Korean Women Link). In discussion with the author. Seoul, Korea, June 25, 2011.

Kim, Dong Hyun (Women’s Employment Policy Division, Ministry of Employment and Labor). Telephone interview by author. August 26, 2011.

Labor Officer (Kyonggi Local Labor District). Telephone interview by author. August 26, 2011.

Official (Division of Family Policy, Ministry of Gender Equality & Family). Telephone interview by author. August 26, 2011.

Official (Division of Population Policy, Ministry of Health and Welfare). Telephone interview by author. August 26, 2011.