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# Actual Status of Discrimination against Female Workers in Their Pregnancy or Perinatal Period

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## I . Research overview

### 1. Necessity and purpose of research

- Although the Korean government is carrying out policies prohibiting and preventing discrimination against female workers in their pregnancy or perinatal period including the Equal Employment Opportunity and Work-Family Balance Assistance Act, cases related to disadvantages and layoff due to pregnancy or childbirth are continuously being reported (Korean Women Workers Association, 2018: 9).
  - However, existing studies on the actual status of gender discrimination in the labor market are mainly focused on wage, employment, promotion, etc., leading to lack of information gathering on discrimination against female workers in their pregnancy or perinatal period or development of policies based on the information.
  
- The purpose of the study is to understand the actual status of discrimination experienced by female workers during pregnancy or

perinatal period and to develop policy measures to prevent such discrimination.

- In this regard, we try to find out the actual status of the utilization of various institutional systems by female workers for pregnancy or perinatal period including those related to work placement, maternity protection system, and maternity leave as well as the disadvantages and discrimination they experience, and to develop policy measures to prevent discrimination and eliminate disadvantages based on foreign examples, etc.

## 2. Research content

- Previous studies and current domestic and foreign policies (Chapter I)
- Analysis of actual status of discrimination against female workers during their pregnancy or perinatal period, etc.
  - Analysis of the relationship between the determinants for decision on introduction of maternity protection systems by companies, utilization of maternity protection systems by female workers, experience of pregnancy and childbirth, and discrimination in personnel affairs in places of work, based on the analysis of the items related to maternity protection systems in the 2017 Survey on Work-Family Balance for Businesses and the Survey on Work-Family Balance for Workers (Chapter II)
  - Empirical analysis of unfair treatment during pregnancy and maternity leave, actual conditions of return-to-work after childbirth, etc., based on the results of the survey on women who have experienced pregnancy and childbirth within the recent five years (about 1,300 female clients of domestic private credit card companies

aged 30~45) and focus group interviews (28 Seoul residents, three Gyeonggi-do residents) to complement qualitative information absent in statistical surveys (Chapter III)

- Policy recommendations for the prevention of discrimination against female workers during their pregnancy or perinatal period (Chapter IV)

## II . Literature Review and foreign case study

### 1. Literature Review

- Most of the previous domestic surveys on businesses and workers and studies based on the results of these surveys are focused on figuring out whether businesses have established and are operating maternity protection and care systems under legal guarantee, whether workers are using these systems well, and what are relevant difficulties and their reasons (Yeong-ok Kim et al., 2007; Sam-sik Yi et al., 2015; Yeong-ok Kim et al., 2017a; Yeong-ok Kim et al., 2017b; Mi-ae Guk et al., 2017; Gyu-chang Yu et al., 2006; Myeong-su Yun et al., 2014).
  - There are not many studies that surveyed firsthand and analyzed the experiences of explicit and implicit discrimination experienced by female workers during their pregnancy or perinatal period, with the exception of some studies in which they were covered as part of qualitative case studies (Jeong-won Gong et al, 2016; Yong-man Cho, 2012; Seon-yeong Park et al, 2016).
- Analysis of various aspects and causes of discrimination toward

female workers in pregnancy, perinatal and child-rearing periods that occur implicitly and structurally is found more often among previous foreign studies.

- These studies deal with issues related to discrimination including the problem of power structure in organizations, social stigma, discriminatory practices deeply rooted in different stages and discrimination that occurs based on problems inherent in organizations (Byron and Roscigno, 2014; King and Botsford, 2009).
- There are a number of studies that verify, through data analysis and tests, the existence of disadvantages – so-called motherhood penalty – to the wages of female workers due to pregnancy, childbirth and child-rearing, in the form of implicit discrimination (Benard and Correll, 2010; Correll et al., 2014; Berggren and Lauster, 2014).

## 2. Foreign Case Study

- Many foreign countries provide various information and guidelines to employers and female workers so that female workers may not suffer discrimination in terms of employment, wages, work placement, promotion, etc. due to pregnancy or childbirth.
  - They present specific means for employers and female workers to enable female workers to adequately use maternity protection systems related to pregnant female workers, including maternity leave.
  - Basic code of conduct between pregnant female workers and employers/managers is provided, and in the U.K., specific instructions are given about how managers are supposed to carry out conversation with pregnant female workers, after they recognize the workers' pregnancy.
  - By providing guidelines to managers, who pregnant female workers

meet first to consult about the use of various maternity protection systems, unreasonable treatments due to pregnancy, etc., it is possible to improve the accessibility of female workers to maternity protection systems and to help businesses to properly respond to discrimination based on pregnancy.

- It is seen that the scope of discrimination based on pregnancy is not limited to discrimination that occurs in relation to existing institutional systems such as employment, wages, and maternity protection system, but is expanding to non-institutional and psychological realms including harassment against female workers based on pregnancy and childbirth.
  - It is notable that the guidelines in the U.S. and Canada deal with harassment on pregnant female workers who are discriminated due to pregnancy.
  - This indicates that we need to consider harassment based on pregnancy and childbirth commonly experienced in workplaces by female workers as a kind of discrimination based on pregnancy, and develop the means for prevention and countermeasures.

### III. Introduction and utilization of maternity protection systems and experience of discrimination by workers

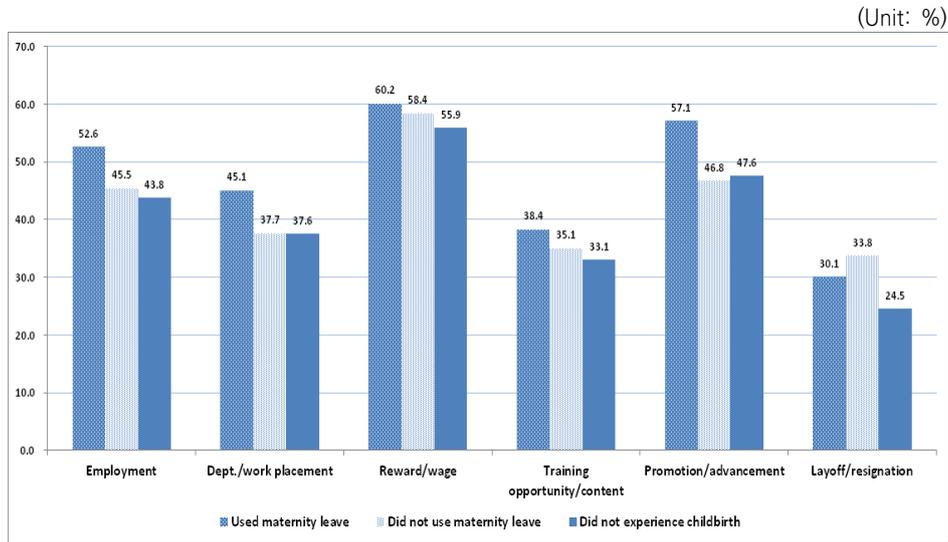
- Based on the results of the 2017 Survey on Work-Family Balance for Businesses, the impact on the number of maternity protection systems and the decision on the introduction of different maternity protection systems is analyzed.

- It was found, as a result of the analysis, that gender inequality in personnel management and flexibility in working hours and working places has significant influence on the degree of introduction of maternity protection systems (number) and the likelihood of the introduction of most institutional systems. In other words, introduction of institutional systems is easier when personnel management is carried out equally between the two genders and flexibility is maintained regarding working hours and working places.
  - The percentage of women in the promotion list, rather than the percentage of female workers, appears to have bigger influence on the introduction of institutional systems. Concerning different types and sizes of businesses, construction and wholesale/retail businesses as well as smaller businesses are less likely to introduce these systems, with slight differences according to different systems.
  - The existence of labor union in the workplaces also has a significant impact, raising the number of maternity protection systems introduced, reducing working hours during pregnancy, limiting night/holiday work during pregnancy, and ensuring time off for prenatal diagnosis, miscarriage and still birth leaves, and menstruation leave.
- Based on the results of the 2017 Survey on Work-Family Balance for Workers, analysis was made with female workers who had experienced pregnancy and childbirth on the factors that influence utilization of maternity leave and the working hour reduction system for pregnant women.
- A common variable that affects the two systems is the rigidity of organizational culture, and the likelihood of utilizing the systems decreased in companies with rigid organizational culture.

- There was slight difference in the usage of maternity leave depending on the types and sizes of businesses, with the likelihood of using maternity leave appearing quite low for employees working in small businesses in the wholesale/retail industry.
  - The utilization of the working hour reduction system for pregnant women was seen to be influenced by age, business type, and existence of labor union, with the likelihood of utilization rising for young service/sales workers employed in companies where labor unions were formed.
- Based on the results of the workers' survey, also an indirect analysis was made on the correlation between the experience of childbirth and maternity leave and the experience of discrimination against female workers in personnel matters (employment, placement, reward, promotion, education/training, layoff or resignation) through cross tabulation analysis and logistic regression.
- The results of cross tabulation analysis show that the group that experienced childbirth/maternity leave has a higher percentage of answering that they experienced discrimination than the group without such experience.
  - This appears more conspicuous with regard to promotion or advancement, as the percentage of respondents in the group that used maternity leave, who answered that they experienced discrimination in promotion or advancement, is higher than the group that did not experience childbirth or the group that did not use maternity leave<sup>1)</sup>.

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1) The group likely to have resigned without using maternity leave



[Figure 1] Timing of experience of discrimination based on experience of childbirth

- The group that experienced pregnancy and childbirth pointed more strongly to the severity of discrimination in answering all questions on gender discrimination related to personnel management in companies than the group that did not, and the gap between the two groups is widest in their responses to the questionnaire item 'Women get promoted more slowly than men in spite of similar career experiences,' just as in items concerning direct discrimination experiences.
- The results of empirical analysis on the impact on the number of discrimination experiences and whether respondents answered that they had suffered discrimination regarding each of the relevant questionnaire items, revealed that discrimination in terms of personnel management became more pronounced for women who experienced childbirth (maternity leave), while it became lower in companies with higher percentage of female workers and flexible

organizational culture.

- Variables that affect the experience of discrimination regarding each of the relevant questionnaire items also showed some age effect or labor union effect. Meanwhile, concerning items related to discrimination in terms of personnel management due to the experience of childbirth (maternity leave), significant result was generated only for department/work placement, promotion and advancement.
- Under rigid organization culture, the likelihood of experience of discrimination rose in relation to all questionnaire items such as employment, placement, reward, promotion, layoff or resignation, while age appeared to have significant influence on placement and education/training, with older workers feeling discrimination more sharply.

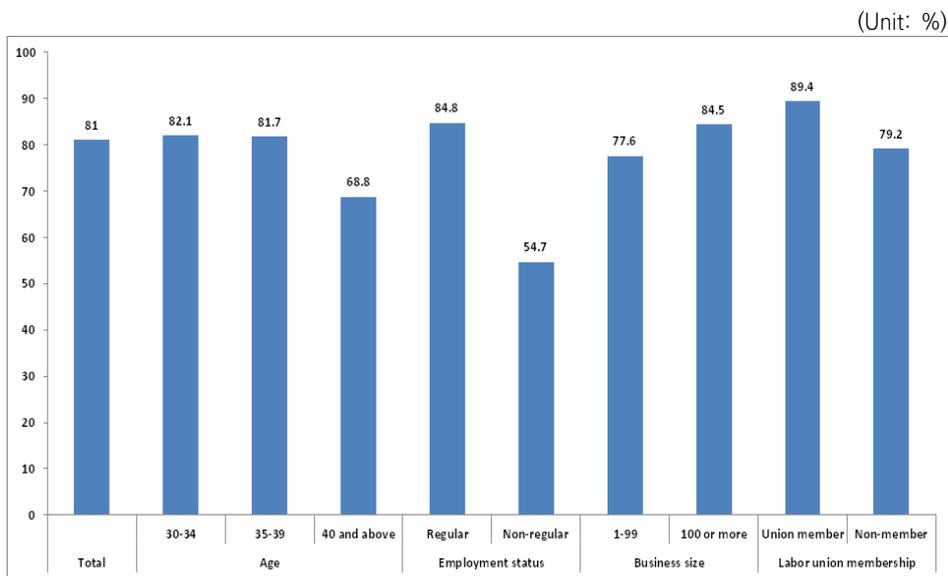
#### IV. Actual status of discrimination against female workers in their pregnancy or perinatal period

##### 1. Results of survey on discrimination against female workers in their pregnancy or perinatal period

- The results of the survey on female workers who experienced pregnancy and childbirth within the last five years show that 81.0% of all respondents used perinatal maternity leave.
  - Regarding the differences by age, the age group that shows the highest use of maternity leave is the one whose members are in their early 30s, with 82.1% of respondents between 30 and 34 using maternity leave, while 81.7% of female workers aged between 35 and 39 and

68.8% of those 40 years of age or older answered that they used perinatal maternity leave in their last pregnancy and childbirth.

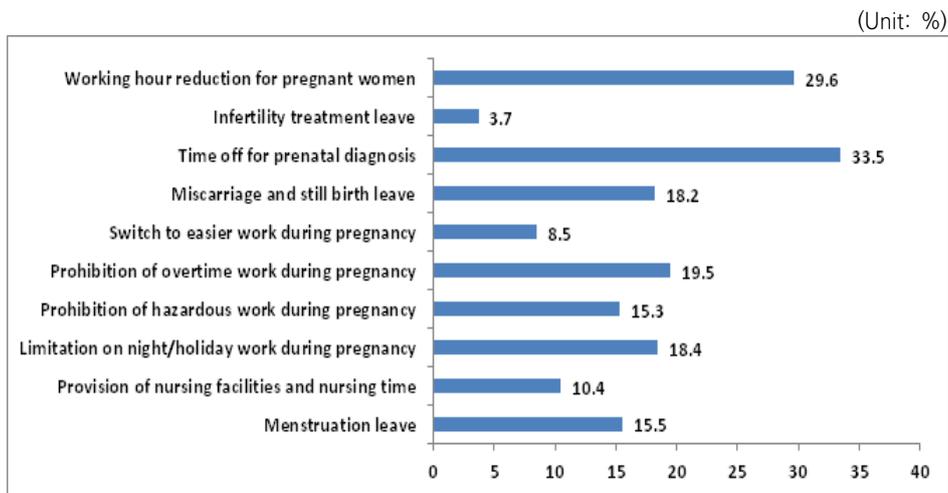
- Concerning their employment status, 84.8% of women who were regular workers at the time of last childbirth answered that they used perinatal maternity leave, whereas the rate was 54.7% for non-regular female workers. With regard to the size of businesses where they worked at the time of last childbirth, 77.6% of respondents who worked in businesses with 1 to 99 employees and 84.5% of those in businesses with 100 or more employees used perinatal maternity leave.
- Regarding the membership in labor unions, 89.4% of the respondents who were labor union members and 79.2% of non-members used perinatal maternity leave.



[Figure 2] Percentage of female workers who used perinatal maternity leave

- Concerning the reasons for not using perinatal maternity leave, 27.6% of respondents who did not use maternity leave answered it was because they did not know how to use maternity leave (excluding 'other reasons'), followed by 15.3% who quit their companies after applying for maternity leave and 13.3% who used other types of leave such as sick leave.
  - The percentages of respondents who could not use maternity leave because they quit their jobs due to the recommendation or pressure from their companies after applying for maternity leave, and those who couldn't because their companies did not give them maternity leave, were both 7.1%.
  
- With regard to the utilization of support systems for female workers in their pregnancy or perinatal period, the institutional system most commonly used by female workers is 'time off for prenatal diagnosis,' and the usage rate is 35.5%.
  - It was followed by 'working hour reduction for pregnant workers' used by 29.6% of respondents. However, the rates of using 'switch to easier work during pregnancy' and 'infertility treatment leave' was relatively low at 8.5% and 3.7%, respectively.
  
- Concerning the reasons for not using support systems for female workers in their pregnancy or perinatal period, the leading cause for not using 'working hour reduction for pregnant workers' and 'menstruation leave' is 'difficulty to use the system due to the atmosphere in the workplace,' whereas the main cause for not using 'infertility treatment leave,' 'miscarriage and still birth leave' and 'prohibition of hazardous work during pregnancy' is 'none of the above.'

- The main reason for not using ‘time off for prenatal diagnosis,’ ‘switch to easier work during pregnancy,’ and ‘prohibition of overtime work’ appears to be because they were unaware of the existence of such systems.



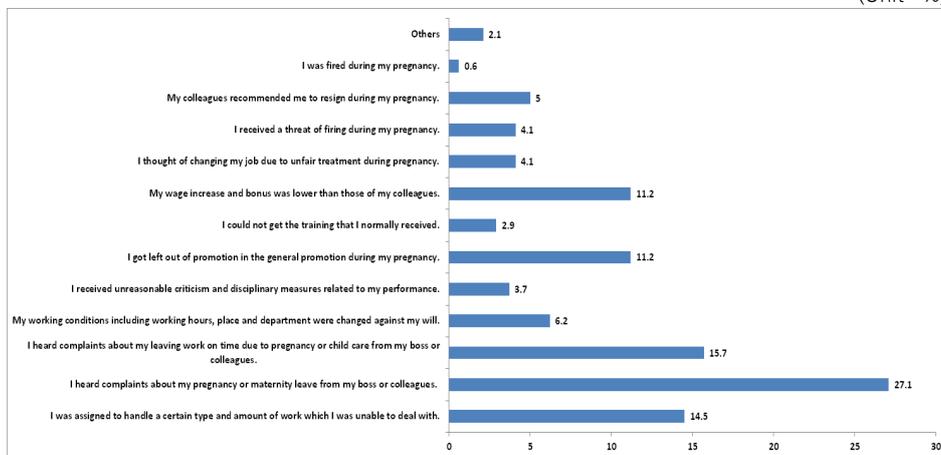
[Figure 3] Percentage of female workers who used support systems for female workers during pregnancy or perinatal period

- The type of unfair treatment most frequently experienced during pregnancy by female workers with experience of pregnancy and childbirth within the last five years is ‘I heard complaints about my pregnancy or maternity leave from my boss or colleagues’ (27.1%).
- The rest of the answers are ‘I heard complaints about leaving work on time due to pregnancy or child care from my boss or colleagues’ (15.7%), ‘I was assigned to handle a certain type and amount of work which I was unable to deal with’ (14.5%), followed by ‘My wage increase and performance-based bonus during pregnancy were lower than those of my colleagues’ and ‘I was left out of promotion (including exclusion from the promotion candidates) in the general

promotion during my pregnancy,’ both at 11.2%.

- About 48.7% of all respondents answered that they did not receive any unfair treatment during their pregnancy, which indicates that more than half of the female workers received unfair treatment in their pregnancy.

(Unit: %)

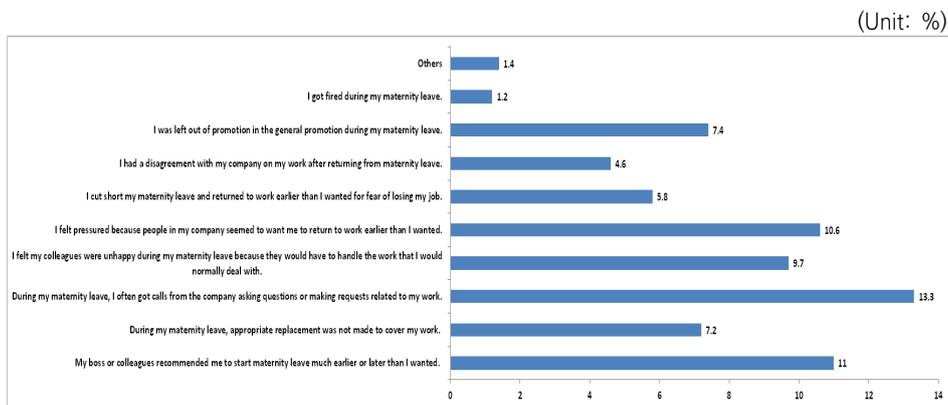


[Figure 4] Percentage of female workers who experienced unfair treatment during pregnancy or perinatal period

- The type of unfair treatment most frequently experienced during maternity leave by female workers who experienced pregnancy and childbirth within the last five years was ‘I often received calls from my company asking questions or making requests related to my work during maternity leave’ (13.3%).
- Next, 11.0% of all respondents answered ‘My boss, colleagues, etc. recommended me to start maternity leave earlier or later than I wanted,’ and 10.6% of respondents answered ‘I felt pressured because people in my company seemed to want me to return to work earlier than I wanted,’ followed by those who answered ‘I

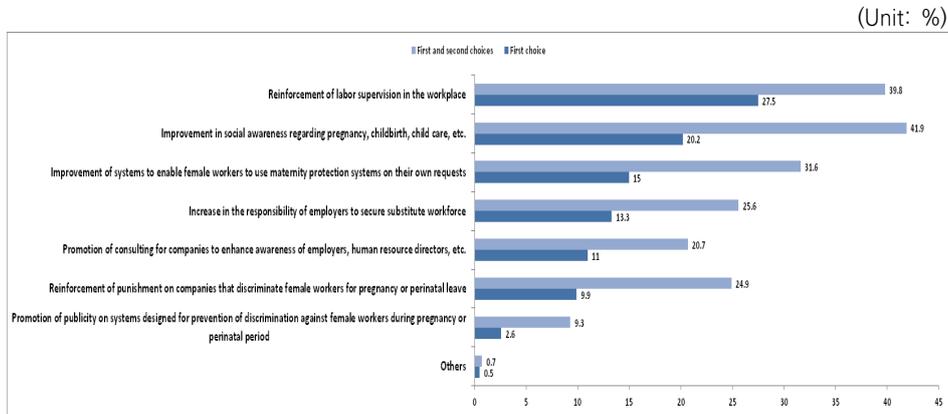
felt my colleagues were unhappy during my maternity leave because they would have to handle the work that I would normally deal with' (9.7%).

- About 44.7% of all respondents answered that they did not receive any unfair treatment in relation to their usage of maternity leave, which indicates that more than half of female workers received unfair treatment for their utilization of maternity leave.



[Figure 5] Percentage of those who experienced unfair treatment during maternity leave

- When asked about possible measures to prevent discrimination against female workers in their pregnancy or perinatal period, more than 10% of the respondents pointed to 'Reinforcement of labor supervision in the workplace,' 'Improvement in social awareness,' 'Improvement of institutional systems to enable female workers to use maternity protection systems on their own requests,' 'Increase in the responsibility of employers to secure substitute workforce,' and 'Promotion of consulting for companies to enhance the awareness of employers, human resource directors, etc.'



[Figure 6] Possible measures for prevention of discrimination against female workers during their pregnancy or perinatal period

## 2. Results of focus group interviews (FGI) with female workers in their pregnancy or perinatal period

### Insufficient utilization of institutional systems

- Female workers appear to be reluctant to inform their companies about their pregnancy at 3 to 6 months during which pregnancy is generally stabilized, due to such reasons as employment insecurity, concern for unpleasant look in their companies, avoidance of the time of promotion and existence of implicit pregnancy rotation system, etc., making it impossible for them to exercise their proper rights in the early stages of pregnancy.
- When they request time off their working hours to get prenatal diagnosis, they are often advised to do it on holidays. This is due to their lack of information on the time off system for prenatal diagnosis and lack of awareness as well as the willingness to approve it as a right of pregnant women.

- The working hour reduction system during pregnancy is not being properly utilized because of the lack of information on the system and disapproval from managers (team leaders).
- The lack of knowledge on these institutional systems and awareness related to maternity protection by managers, representatives, executives, and personnel departments in most small and medium companies is seen as the primary obstacle to the utilization of the support systems for female workers in their pregnancy

Cases of discrimination during pregnancy

- Unwanted placement in another department
- Inducement of resignation through heavy workload
- Complaints from colleagues and creation of unpleasant atmosphere
- Prohibition of the use of monthly paid holiday during pregnancy
- Inducement of resignation on temporary non-regular workers

Cases of disadvantages and discrimination related to maternity leave

- Interference in the use of maternity leave
- Difficulties in preparing documents for maternity leave
- Work progress during maternity leave
- Non-payment of maternity leave pay
- Creation of unfriendly relationship with company colleagues
- Insufficient maternity leave period

Cases of disadvantages and discrimination at the time of return after childbirth

- Poor performance review based on pregnancy and childbirth
- Wage freeze based on pregnancy and childbirth
- Deprivation of the chance for promotion and relevant rights based on pregnancy and childbirth
- Difficulties related to work-family balance after returning to work
- Lack of nursing facilities and relevant awareness
- Unpleasant look and speeches from within their companies on female employees who return to work after childbirth
- Increased sense of alienation at the time of return after childbirth
- Lack of knowledge on and low utilization rate of the paternity leave system

### 3. Key survey results and their implications

- Female workers experience various types of unfair treatment during and around their pregnancy or maternity leave period.
  - According to the survey results, less than half of the respondents answered that they did not experience unfair treatment during pregnancy or maternity leave period. This means that female workers are exposed to numerous different types of discrimination during and around their pregnancy or maternity leave period.
  - Notably, in addition to unfair treatment on the institutional level, such as wage reduction and employment insecurity during pregnancy or maternity leave period, there exist unfair treatments on the psychological and non-institutional levels, including the expression of dissatisfaction by their colleagues on relevant workers' maternity leave and exclusion from night work, and this raises the

necessity to develop means for prevention of these non-institutional unfair treatments and countermeasures.

- Female workers in their pregnancy are unable to use maternity protection systems socially guaranteed for them due to a variety of reasons.
  - In particular, it is seen that they cannot use the maternity protection systems because they do not know that there are such systems or how to use them.
  - These results indicate the need to develop diversified measures to promote the awareness of female workers and their accessibility to these systems.
  
- It is seen that awareness of employers and managers needs to be improved on a continuous basis to facilitate prevention of discrimination against female workers in their pregnancy and utilization of maternity protection systems.
  - According to the survey results, the key reason for female workers' failure to use various maternity protection systems, including maternity leave, was due to company regulations or atmosphere.
  - Therefore, it is necessary to revise various regulations, strengthen the responsibilities of employers and managers and improve their awareness to create an atmosphere in which female workers can use maternity protection systems without constraints.

## V. Policy recommendations

- Promotion of maternity protection systems using the standard maternal-child health handbook
  - A key reason for female workers' failure to use varied maternity protection systems, according to the results of the survey, appears to be their lack of knowledge on the implementation of relevant systems and methods of using them, and this raises the need to improve the awareness and utilization of these systems among female workers in their pregnancy or perinatal period.
  - In this regard, the awareness and utilization of these systems among female workers may be promoted by adding information on maternity protection systems in the standard maternal-child health handbook currently being distributed to pregnant women by the Ministry of Health and Welfare through health centers and medical institutions.
  
- Implementation of a system for voluntary registration of pregnant female workers at the Ministry of Employment and Labor
  - The results of the survey conducted for this study indicate that many pregnant female workers are fired or pressured to resign during their pregnancy or maternity leave.
  - Therefore, it is necessary to develop a measure to enable pregnant female workers to register at government agencies such as the Ministry of Employment and Labor voluntarily to receive various services, based on which the government can monitor the changes in the employment status of registered female workers and minimize the occurrence of unfair labor practices.

- Mandatory introduction of maternity protection education and operation of maternity protection systems primarily based on the requests from pregnant female workers
  - The results of the analysis of determinants for the decision on introduction of maternity protection systems by businesses show that gender discrimination in personnel management practices has a significant influence on whether these systems are introduced. The survey results also indicate that pregnant female workers who apply for maternity leave often cannot use it due to disapproval from their companies.
  - This suggests the necessity to make policy efforts for the improvement of knowledge and awareness of relevant systems by human resource directors to promote the utilization of maternity protection systems, as well as to enhance the understanding of all members of companies to prevent social and cultural discrimination against female workers in their pregnancy or perinatal period.
  - In this regard, it is necessary to introduce mandatory maternity protection education in businesses and consider improving the operation of maternity protection systems to enable workers to benefit from various systems based on their own requests alone.
  
- Extension of paternity leave period
  - According to the survey results, 97.0% of women who experienced pregnancy and childbirth within the last five years agreed on the need to extend paternity leave period, and the appropriate period of paternity leave appeared to be 29.4 days on average.
  - In addition, it was suggested in the focus group interviews by

female workers who gave birth to their second children that the period of paternity leave needs to be extended to allow spouses to take care of older children while mothers stay in postnatal care centers with newborn babies.

- Based on these reasons, it is necessary to extend paternity leave to guarantee the effects of relevant systems.

Reinforcement of supervision on discrimination against female workers in their pregnancy or perinatal period

- According to the survey results, pregnant female workers are faced with various forms of unfair treatment during their pregnancy or maternity leave period.
- Therefore, reinforcing supervision for the prevention of discrimination against these women is required, and in relation to this, monitoring should be made continuously on the actual conditions of maternity protection in workplaces where pregnant female workers who voluntarily registered work, in addition to the existing smart labor supervision.
- Sustained efforts should be made to examine, improve, and modify company regulations unfavorable to pregnant female workers.

Development of guidelines for prevention of discrimination against female workers in their pregnancy or perinatal period

- As examined earlier in the paper, leading foreign companies have developed and are maintaining various guidelines for the prevention of unfair labor practices against female workers in their pregnancy or perinatal period.

- In relation to this, it is necessary to develop and maintain domestic guidelines for prevention of discrimination against female workers in their pregnancy or perinatal period and protection of their rights, with varied contents differentiated for employers, human resource directors, managers and female workers.
  
- Elimination of harassing behaviors against female workers during their pregnancy or perinatal period
  - The survey results indicate that female workers receive numerous different types of psychological pressures and criticism from their bosses and colleagues during their pregnancy or maternity leave period. These pressures and criticism can be seen as harassing behaviors targeting pregnant female workers and are considered to belong to discrimination in the U.S. and Canada.
  - Therefore, such harassing behaviors targeted on pregnant female workers should be seen as discrimination against pregnant women, and countermeasures need to be set out to get rid of these behaviors.