

KWDI ISSUE PAPER

Research Title: Affirmative Action in Korea

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Current Status of Affirmative Action and Improvement Measures

Abstract

- In Korea, affirmative action is mainly applied in three areas: educational opportunities, recruitment, and decision-making positions. It is targeted not only at women, but also other groups that are marginalized in society due to structural inequality, such as people with disabilities, low-income people, and people from non-Capital regions. Affirmative action programs aimed to address gender discrimination are focused on expanding women's participation in decision-making positions in the public sector.
- The quota system that sets the proportion or number of people of a certain group among the final selected people is being implemented in the selection systems targeting people with disabilities, low-income people, and people from non-Capital regions. The quota system targeting women is applied only to the nomination of proportional representation candidates for the National Assembly and local councils and to the recruitment of military and police officers. The mandatory quotas for the nomination of female proportional representation candidates for the National Assembly and local councils are based on law. The quota system for the recruitment of female military and police officers has no legal basis. It is claimed that the latter is to "increase women's participation", but in fact, it is not aimed to address gender discrimination, but is a reverse quota that restricts the proportion of women from expanding beyond a certain level.
- Affirmative action programs aimed to increase the participation of women in decision-making positions of the public sector use a target system, not the quota system, as a main means of implementation. In other words, those programs are implemented loosely and flexibly as each institution sets its own target under the guidelines of its governing ministry, and normative pressure, such as performance checks, the reflection of evaluation indicators, and publication, is used to encourage the implementation of the programs. South Korea has no legal basis for a "tie-break" policy favoring women in recruitment when their qualifications tie men's which has been implemented in many EU countries that have long implemented affirmative action programs focusing on gender equality in employment. The target systems in South Korea do not have means strong enough to raise controversy related to this.

- While the proportion of women has increased in various areas of the public sector over the past decade, it is only the proportions of female headmasters and headteachers that have reached 30%, a proportion that is assumed to be the critical point, or the minimum proportion that can create a crack in the sexist culture and practices of an organization. It is very problematic that affirmative action programs to redress gender discrimination face growing backlash and antipathy which stemmed from a misunderstanding when even the minimum level of quantitative representation hasn't been achieved. This seems to be caused by the illusion that gender equality has already been achieved because women are advancing into more diverse fields than before due to their higher level of education and the effects of various socioeconomic and cultural changes, and by the effect of online-based anti-feminism that combined with mainstream politics.
- To build consensus on affirmative action programs to redress gender discrimination in this changed situation, the following improvements are needed. First, the underrepresentation of a particular gender should be the starting point to diagnose its cause, and this should be followed by active discussions over which discriminatory practices or institutions have caused it and what should be the ways to address the problem. Second, a more sophisticated methodology should be developed, such as a comparative analysis of the current status of representation of each gender versus the discrimination-free ideal state, to provide a valid basis for target setting. Thirdly, monitoring and continuous improvement measures should be prepared to ensure quantitative and substantive representation.

Background and Objectives

- **As 'fairness' is recently recognized as a main value pursued by young people, there grows antipathy against the quotas for women rapidly.**
 - ▶ One of the main arguments is women's quotas violate the rules of fair competition by giving 'preferential treatment' to women, resulting in reverse discrimination against men.
 - ▶ In fact, the programs that are recognized as 'women's quota' are not strictly defined quotas but affirmative action.
- **Affirmative action refers to various programs that seek to address discrimination and achieve equality by actively intervening to ensure that the proportion of those groups who are underrepresented in major areas of society due to structural discrimination exceeds a certain level, and quotas are one of the various means of affirmative action.**
- **The backlash against the women's quotas is based on distorted information circulating online and misunderstanding about affirmative action, but on the other hand, could be attributable to the limitations in implementing those programs.**

- ▶ Affirmative action targeting women began in the mid-1990s with the increased proportion of women in government committees, was applied to the appointment of women in the civil service in the late 1990s, and expanded in the 2000s to a target system to increase women’s representation in the public sector including female managers.
- ▶ However, despite the long-time focus on target management, there hasn’t been active discussion and debate concerning the system’s necessity and rationale. As the practice of seeing the achievement of numerical quantitative targets as progress has become established, gender equality has been equated with the numerical percentage of women in the organization.
- ▶ In this process, it has been systematically overlooked that affirmative action is one of the government’s strategic policy responses to achieve gender equality and that it is a proactive policy prescription for addressing the problem of gender discrimination, which is deeply rooted in society as a whole and is reproduced in an invisible way.
- ▶ In the process of drafting the law and the system, it was not overlooked that affirmative action was an approach to addressing the problem of structured gender discrimination but it was understood as a provisional ‘preferential treatment.’ Even if it was understood as ‘provisional’, the argument that conceptualizes it as ‘preferential treatment’ is inevitably exposed to the criticism of ‘reverse discrimination.’

● **Considering this situation, it is necessary to provide more accurate information on the status of the relevant programs, the rationale for their implementation, and issues, and based on this, to prepare a plan to improve affirmative action as a gender equality policy.**

Research and Analysis Results

● Affirmative Action Programs in the U.S.

<Table> Oppenheimer’s Classification of Types of U.S. Affirmative Action Programs

| Category | Definition |
|------------|--|
| Quota | <ul style="list-style-type: none"> - The quota system allocates the number or proportion of women or social minority groups to a certain level in recruitment, promotion, selection of new students, etc. - It is subject to heated debate as it is viewed as the epitome of affirmative action, but in fact, is allowed only strictly on a limited basis. |
| Preference | <ul style="list-style-type: none"> - This system is favorable towards underrepresented groups, but, unlike the quota system, does not set a certain percentage or number. - Examples include considering gender or race as one of the various criteria for selecting new students or hiring candidates of a specific gender or race when they are as qualified as the others. - This is only used under strict guidelines and when it is essential to eliminate discrimination. |

| Category | Definition |
|-------------------------|---|
| Self-Studies | <ul style="list-style-type: none"> - This kind of system requires federal government contractors to examine if they discriminate against certain groups in recruitment. - If a comparison between the potential pool for recruitment or promotion and the pool of the hired/promoted reveals discrepancies and no evidence is found to prove there has been no discrimination, they should submit a remediation plan. |
| Outreach and Counseling | - This refers to special programs supporting social minorities under the assumption that they lack knowledge or information about employment or school admission |
| Anti-Discrimination | - Anti-discrimination measures to ban and prevent discrimination, abolish policies that have discriminatory effects, and remedy damages caused by discrimination. |

Source: Oppenheimer(1988), pp.42-50; Oppenheimer(1996), pp.926-933 - reconstructed by the author

Current Status of Affirmative Action Programs in Korea

Types of Affirmative Action Programs

▶ Application Areas and Targets

- In Korea, affirmative action is applied in three areas: educational opportunities, employment, and decision-making positions, targeting not only women, but also groups who are marginalized in society due to structural inequality, such as people with disabilities, low-income people, and people living outside the Capital region.

<Table 1> Application Methods and Targets of Korea's Affirmative Action

| Area | Sub-Area | Application Method | Target Groups | |
|--|--|---|--|---------------------|
| | | | Social Minorities | Women (Men & Women) |
| Educational Opportunities | • General departments of a university | Up to 11% of enrollment quota, but not counted for quota | People with disabilities, North Korean refugees, people from rural or remote areas, vocational high schools, and low-income groups | |
| | • Schools of Medicine, Dentistry, and Korean Medicine | Up to 5% of enrollment quota, but not counted for the quota | People with physical, economic, or social needs | |
| | • School of law | 7% or higher of the year's number of admitted students are selected via a special process. | People with physical, economic, or social needs | |
| | • Universities outside Seoul | Arbitrary | People from outside of the Capital region | |
| | • Colleges of Medicine, Pharmacology, and Nursing | The minimum percentage of entire admitted students is set per region. | People from the region | |
| | | The minimum number is set depending on the recruitment size. | Low-income people | |
| | • Law School, Medical School, School of Dental Medicine, and School of Traditional Korean Medicine | The minimum percentage out of entire admitted students is set by the type of school and region. | People from the region | |
| | | The minimum number is set depending on the recruitment size. | Low-income people (excl. law schools) | |
| • Science and Engineering Universities | Target system | | Female students in science & engineering | |

| Area | Sub-Area | Application Method | Target Groups | | |
|---|---|--|---|---------------------------------|---|
| | | | Social Minorities | Women (Men & Women) | |
| Recruitment | • Central and local governments | Mandatory recruitment rate: 3.6% (01.01.2022 - 31.12.2023) | People with disabilities | | |
| | | Grade-9 new civil servants to be selected via an open competitive recruitment exam: min. 2%, Grade-9 civil servants with work experience in relevant fields to be selected via an open competitive exam: min. 1% | Low-income people | | |
| | | A minimum percentage is set against the planned number of recruits which varies by the phase of the exam. | Men and women | | |
| | | A minimum percentage is set against the planned number of recruits which varies by the phase of the exam. | People residing outside the Capital region | | |
| | • Public institutions | Mandatory recruitment rate: 3.6% ¹⁾ (01.01.2022 - 31.12.2023) | People with disabilities | | |
| | | Mandatory recruitment rate: 3.1% | Unemployed young persons | | |
| | | Yearly recruitment rate (30.0% since 2022) | People from the region where the institution is located | | |
| | • Public institutions (incl. research institutes or colleges in science and technology) | Mandatory recruitment rate: 3.1% Target system | | Women in science and technology | |
| | • Military and police | Target system | | Women | |
| | • University | Target system | | Female professors | |
| | Decision-making Positions | • Central and local governments | Target system | | Female members of committees, women in management positions |
| | | • Public institutions | Target system | | |
| • Management positions at public institutions (incl. research institutes or colleges in science and technology) | | Target system | | Women in science and technology | |
| • Private enterprises | | Min. 1 member of the BoD should have a different gender from the rest. | | Female executives | |
| • Politics | | It is mandatory that 50% of the proportional representation candidates nominated for the National Assembly or local councils are women; It is recommended that 30% of the candidates nominated for an electoral district be women. | | Female politicians | |

Source: The author referred to and compiled the information from the relevant laws available at the Korean Law Information Center (<https://www.law.go.kr>).

1) Article 28.2 (Public Institutions' Mandatory Recruitment Rate for Persons with Disabilities), Enforcement Degree of the Act on the Employment Promotion and Vocational Rehabilitation of Persons with Disabilities

<Table 2> Application Methods of Affirmative Action to Redress Gender Discrimination

| Area | Sub-Area | Target | Application Method |
|---------------------------|---|---|---|
| Educational Opportunities | Science and Engineering Universities, etc. | Female students in science and technology | To achieve the ultimate target rate of 30%, science and technology universities are encouraged to set the yearly target rate of female students admitted by department or college. Universities that maintain an appropriate proportion of female students admitted are given preferential treatment such as research funding ²⁾ . |
| Recruitment | Universities | Female professors | Universities should make efforts to ensure that faculty members of a certain gender do not exceed three-quarters of the entire faculty. They should set and implement yearly targets for the proportion of female professors, and evaluate and announce the results every year, based on which they can receive administrative or financial support ³⁾ . |
| | Military and police | Women | The target rate for female members is set every year. |
| | Private enterprises | Women | Companies should prepare and submit the status and wages of male and female employees by job and title. The list of companies whose proportion of female employees is less than 70% of their industry average for three years in a row is published. |
| Decision-making Positions | Central and local governments | Female members of a committee | The appointed members of a certain gender should not exceed 60% of the entire members of a committee. The status is checked and published every year. |
| | | Female managers | Target is set for female managers. |
| | Public institutions | Female managers | Target is set for female executives. |
| | Public institutions in science and technology | Women in science and technology | The promotion target is set by the title. |
| | Private enterprises | Female executives | At least one member of BoD should be of a different gender than the rest members. |

Source: The author referred to and compiled the information from the relevant laws available at the Korean Law Information Center (<https://www.law.go.kr>).

Major Affirmative Action Programs to Redress Gender Discrimination and Quantitative Representation

- ▶ Affirmative action programs are divided into the quota system and the target/monitoring system based on their application method.
- ▶ Quota System
 - The quota system is viewed as a typical form of affirmative action. Under the quota system, the proportion or number of people from a certain group among the finally selected people is set.
 - It is applied to areas such as educational opportunities, recruitment, and decision-making positions, and is mainly targeted at people with disabilities, low-income people, and people from non-Capital regions.
 - The quota system for women is only applied to the nomination of proportional representation candidates for the National Assembly and local councils, and to the recruitment of military or police officers. The mandatory nomination of female proportional representation candidates for the National Assembly and local councils is based on law. The recruitment of female officers for the military and the police has no legal basis. The quota system of the military and the police claims to “increase the advancement of women”, but it is not aimed to address gender discrimination but is a reverse quota system that restricts the proportion of women from increasing beyond a certain level.
- ▶ Target and Monitoring System
 - Under the target and monitoring system, yearly targets are set for a certain period and the achievement results are checked and announced. Most affirmative action programs targeting women fall under this system.

2) Article 10 (Ratio of Female Students in Science and Technology Universities), Article 8 (Maintaining a Proper Ratio of Female Students in Science and Technology Universities), Enforcement Decree of the Act on Fostering and Supporting Women Scientists and Technicians

3) Article 15-5 (Formulation of Appointment Plans Based on Equal Opportunities for Both Genders) Educational Officials Act

<Table 3> Summary of Affirmative Action to Redress Gender Discrimination

| Major Programs | Summary |
|--|--|
| The Plan to Increase Women's Representation in the Public Sector | Under the plan, each institution in 12 areas of the public sector such as civil servants, public institutions, teachers, military, and police should set a five-year target, and their implementation results are checked and announced. |
| Female Candidate Quota System | It is mandatory that 50% of proportional representation candidates should be women, and it is recommended that at least 30% of candidates for electoral districts be women. |
| Affirmative Employment Improvement Program | To check and address gender discrimination in employment, private enterprises should prepare and submit the proportion of female employees and managers, and the workplaces that fail to meet the standard should submit a correction plan. |
| Recruitment and Promotion Target for Women in Science and Technology | To support women's advancement into the field of science and technology, 126 research institutes (government-funded, national and public, and affiliated to government-owned companies) are encouraged to ensure that the proportion of women newly hired and promoted each year meets a certain level, with their implementation being checked. |
| Expansion of Participation in Corporate Decision Making | To address the low representation of women in corporate decision-making positions and the glass ceiling, companies above a certain size should ensure that their BoDs are not composed of same-gender members. |

Source: The author referred to and compiled the information from the relevant laws available at the Korean Law Information Center (<https://www.law.go.kr>).

Characteristics of Affirmative Action Programs to Redress Gender Discrimination

They mainly focus on expanding women's advancement into the public sector and decision-making positions.

- ▶ These measures are aimed to break the glass ceiling as a product of long-standing structural sexist culture and practices and to ensure that women's voices are represented in the public decision-making process which has a significant impact on people's lives.

They are mainly in the form of the target system, not the so-called "quota system for women" as which they have been understood.

- ▶ The target system implemented mainly in the public sector is a loose and flexible method in which each institution sets and works to meet the target voluntarily following the guidelines of their governing ministry.

The mechanism for achieving the target is imposing normative pressure through performance checks, the reflection of evaluation indicators, and publication.

- ▶ South Korea has no legal basis for a "Tie-Break Policy" favoring women in recruitment when their qualifications tie men's which has been implemented in many EU countries that have long implemented affirmative action programs focusing on gender equality in employment. The target systems in South Korea do not have means strong enough to raise controversy related to this.

Current Status of Affirmative Action to Redress Gender Discrimination and Changes in the Policy Environment

Introduction and History of Affirmative Action

- ▶ In Korea, affirmative action to redress gender discrimination was introduced in the mid-1990s in the government sphere such as women's participation in government committees and women recruitment target system for civil servants, and was expanded to more diverse areas for about a decade until the mid-2000s.

- ▶ Affirmative action programs which had been individually implemented since the mid-90s to redress gender discrimination in the public sector were organized under the five-year Plan to Improve Women's Representation in the Public Sector in 2013 and their implementation results have since been checked and announced on a yearly basis.

Current Status of Quantitative Representation of Women

- ▶ The quantitative representation of women in the public sector exceeds the target in most areas and can be assessed as improved as a whole compared to 10 years ago.
- ▶ However, the target achievement rate differs by sector, and not many areas have reached 30% which is assumed to be the critical point that can cause a crack in the organizational culture and norm qualitatively.
- ▶ As for women's representation in the political area, the law that makes it mandatory to nominate women for at least 50% of proportional representation candidates has contributed to the increase in the proportion of female members of the National Assembly, which has been stuck, however, below 20% over a decade.
- ▶ In the area of employment, the implementation of affirmative action was followed by the increase in the number of female employees in the target workplaces but has not contributed to the increase in the proportion of female employees in the target companies.
- ▶ The proportion of women hired in the science and technology area has steadily exceeded 30% in the recent three years, but the proportion of women working in the research institutes to which the target system for hiring and promoting women in science and technology is applied remains below 30%.
- ▶ Women's participation is lowest in the corporate decision-making process. The legal basis to expand women's representation was prepared as late as in 2020 and has not shown its effect yet.

Limitations of the System Implementation

- ▶ Quantitative representation lagging behind the critical point of 30%: Women's quantitative proportion has increased in various areas in the public sector over the past decade, but it is only the proportions of female headmasters and headteachers that have reached the critical point of 30% that can create a crack in sexist culture and practices within an organization.
- ▶ Affirmative action programs not recognizing discrimination: Affirmative action programs targeting women were intended to redress structural gender discrimination but only highlighted quantitative imbalance as a problem with the need for redressing discrimination not fully discussed during the introduction or implementation of the programs. As a result, the way that gender discrimination that has accumulated over time and still exists even today is committed through the systems, practices, and culture of an organization has not been discussed, and affirmative action programs were simply understood as a measure to address the quantitative imbalance.

- ▶ Such lack of understanding has caused misunderstanding that affirmative action program is a measure to simply address the quantitative imbalance of women, resulting in being easily exposed to the accusation that they bring reverse discrimination against men. Also, it had the effect of bringing up the issue of men's quantitative underrepresentation within the target scope of the program.

Changes in the Policy Environment

- ▶ As women's education level has improved and women's entry into various fields has expanded due to the effects of various socio-economic and cultural changes, the illusion that gender equality has already been achieved has emerged. On the other hand, online-based anti-feminist disclosure combined with mainstream politics is challenging the very value of gender equality that our society should continue to pursue.
- ▶ Various internationally accepted macro indicators to measure the level of gender equality, such as the Gender Gap Index, the Gender Pay Gap, and the Glass Ceiling Index, show that discrimination and inequality against women still persist in our society and the policy responses are needed to address them, but their significance is denied.
- ▶ Against this backdrop, affirmative action to target women in providing support and to expand the proportion of underrepresented women in various public sectors is accepted as reverse discrimination against men.

Policy Tasks

- **Following improvements are needed to effectively achieve the ultimate goal of affirmative action programs, which is realizing real gender equality.**
- **Bringing Discrimination to the Surface and Linking It with Anti-Discrimination Policies**
 - ▶ At a time when the claim that gender discrimination is a thing of the past and does not exist today has political weight, more specific examples of discrimination need to be brought to the surface in order to expose the implications of significant gender imbalance and structural systemic problems that cause an imbalanced outcome.
 - ▶ To this end, it is necessary to use underrepresentation as a starting point to scrutinize and identify the causes and to promote discussions and debates over which discriminatory practices or institutions have caused it, rather than presenting and highlighting quantitative balance as a target.
 - ▶ Through this process, we need to move towards a more constructive discussion about what discrimination we want to address through affirmative action, through which structural mechanism discrimination is committed, and what institutional measures should complement the quantitative quota or target systems.

● Establishing a Valid Rationale for Setting Targets

- ▶ Affirmative action programs targeting women are in the form of a target system, except for the female candidate quota system. However, the targets are not based on a clear rationale.
- ▶ Targets should be set based on more sophisticated methodologies, such as a comparative analysis of the actual status of gender representation with a discrimination-free ideal state.
- ▶ Furthermore, it is worth considering setting the ultimate final targets in view of the current situation of inequality and having each responsible agency or ministry present a mid-to-long-term plan to achieve them. The plan must include a diagnosis of what institutional practices and culture have led to quantitative imbalance, as well as an action plan to address them.
- ▶ If an agency or ministry achieved a target, they should be invited to share what institutional improvements they have made to achieve the target so that information on discriminatory practices as well as consensus on the need for improvement can be spread beyond achieving a simple quantitative target.

● Monitoring and Institutional Improvement to Ensure Substantive Representation

- ▶ For areas where the quantitative level has already reached a critical point, a more in-depth analysis is needed to see if reaching the quantitative level guarantees real representation, which will provide a basis for moving to a new stage.
- ▶ For areas where the quantitative target of representation has not yet been achieved, consistent monitoring is needed to see if the increasing proportion of women is contributing to guaranteeing real representation and, if not, what are the reasons, in order to identify improvement measures.

Responsible organization : Women's Resources Development Division, the Ministry of Gender Equality and Family
Related organizations : the Ministry of Employment and Labor, the Ministry of Personnel Management