

Women, Men and the Family Register Law

By O Nam-gyoung

There are many people who think discrimination against women is old news in Korea. Some even think that women have exceeded the equal standing and in some ways, treated better than men. But the law tells differently. One of the biggest issues is the family registry system. The family registry system is a system that defines each family member in relation to the head of household. Family registry documents are used and required in every aspect of life, from enrolling in schools and applying for jobs to getting tax deductions and changing residence. The Family Register Law, which carries out this system, has provisions that are considered discriminatory against women, all of which promote male succession and male authority.

The succession of head of household designated by the law reinforces the preference for male heir. Provision 984 of Civil Act specifies the order of succession of head of household in the order of son, grandson, unmarried daughter, wife, and finally mother. Technically, a woman can become a head of household but only when there is no living male heir in the family. Therefore, if a woman becomes a head of household, the family name could cease to exist because a woman is registered into the husband's register when she gets married (Provision 826). This is unthinkable to many Korean people, since Korean people are brought up with a concept of the importance of continuing the family name, and they believe it to be their duty to produce a male heir. Thus, even though the law allows women to become head of household, it is designated in a way that in reality, only a male heir can properly continue the family name. Hence, this provision reinforces preference for a male heir that has existed for centuries. And with advancements in technology today, this preference has bred serious side effects.

One among them is the high abortion rate of female fetuses. Many married women have abortions when they find out they are carrying a girl. Every year 30,000 female fetuses are aborted after being diagnosed of gender. This has led to gender ratio imbalance, which is 110:100 or every 110 boys for every 100 girls. The imbalance gets worse as it goes to second child, 121:100, third child, 141:100, and fourth child 242:100. In an extreme case, a woman has had more than five abortions after having three daughters before becoming pregnant with a boy. Such extreme case is not uncommon among many women who are desperately trying to have a son because their family expects it.

In many aspects of life, Korean men have more authority than women. The following two provisions give men more authority in marriage than women. Provision 784 states that when a divorced or an unmarried woman marries and brings the child to the new marriage, in order for her child to be registered under her current husband's register, both her former and current hus-

band's agreements are needed. But when a man registers his own child, he only needs to acknowledge that the child is his. The implication of this provision is that a husband, as a head of household, has more authority, since he doesn't need the consent of his wife to make such decisions whereas the wife needs the consent of her husband. It was common in the old days, when a wife could not bear a son, a husband brought a child from extramarital affairs and registered the child as his son, and the child automatically became the son of his current wife. And the wife, who for one reason or another, might not want the child registered as hers, had no power whatsoever to stop it. Even now, many women suffer from such humiliation but still cannot do anything about it.

Clause 3 of Provision 826 also promotes such male domination, which stipulates that wives are to be registered into the husbands' register. A man can establish his own register when they get married, unlike the woman, who will go into one register or another whether she marries or not. An unmarried woman is registered in her father's register and a married woman is registered in her husband's register. When a woman divorces, she automatically goes back under her father's register unless she appeals to the Registry Office to have her own register. Women go back and forth between registers without establishing their own register, usually for the rest of their lives, their status determined by the men in their lives.

Another provision that promotes male authority, especially that gives men upper hand in parenting, is Provision 781, which stipulates that, when a child is born, the child takes the birth father's surname and is registered into the birth father's register. Only in case the birth father is unknown, can the child take mother's surname and be registered into mother's register. One thing that makes this provision so disadvantageous to women is that, a birth father, unmarried or divorced, has an unequalled claim to the child. If he refuses to acknowledge the child as his own, the child cannot go into the father's register. But when and if the birth father changes his mind and in fact does acknowledge, the child can go into the birth father's register and has to have the surname changed, even without the consent of the birth mother. Such biased right benefits no one but the father, which shows the extent of male domination, and especially hurts the child. One example of the suffering caused by the child is due to different surname. Many children whose surname is same as their mother or different from their stepfather suffer from the stigma, since it would mean that either they're illegitimate or their parents are divorced, both of which are considered "abnormal" and "improper" in Korea. When Kim Ju-ri remarried, she brought with her two children from her previous marriage. But the children's father refused the permission to move them into their stepfather's register so the children's surname remained unchanged. When they entered grade school, the difference in surname made them a target of teasing, kids would call them 'bastard' or talk badly of their mom and dad. Now these children are falling behind their classmates in school and need psychological therapy, so Ju-ri is considering both

transfer to another school and therapy. In order to avoid this kind of suffering by the child, an unwed mother will register her child in the child's grandfather's register; thus the mother and the child become legal siblings. Some people go so far as to use illegal means, by reporting that the child, who is very much alive, is dead, and then re-registering the child as a new person in the stepfather's register. In addition, because the child is under the father's register, the mother and the child cannot even acknowledge each other as the mother and the child in the registry document, but only as 'being at the same address.'

The provisions above indicate that women are indeed discriminated against even under the law. By allowing male succession of the family only, many innocent lives are killed even before they are born. And by allowing men more authority in marriage and in parenting, both the mother and the child suffer as a result. It is too soon to say discrimination against women in Korea is 'old news.'