

The Actual Labor Conditions of Domestic Workers and Measures to Protect Them

Jayoung Yoon¹

Abstract

At its 100th session in June 2011, the Convention Concerning Decent Work for Domestic Workers (No. 189) called on global society to examine the situation of those employed in the domestic work sector. The working conditions of domestic workers in employment relationships with private homes have yet to be reviewed systematically, and representative statistical studies feature limitations on ascertaining the current number of domestic workers engaged in the informal economy and their actual working conditions. This study aims to examine the actual labor conditions of domestic workers in the Republic of Korea by using the Regional Employment Survey conducted in 2012. It suggests appropriate measures for their protection according to the type of domestic function in which they engage. The study finds that because domestic work is neither regulated nor protected by labor legislation, domestic workers are exposed to insecure employment without fixed-term employment contracts; long working hours and low wages; exclusion from the four major social insurance programs, etc.; working in harsh environments compared to other workers; and inability to exercise their labor rights. In conclusion, rather than detailing legislative directions, we suggest proper directions for the protection of domestic workers by their type of work and employment relationship.

Keywords: domestic workers, labor rights, labor protection, informal work

Research Background and Purpose

Since the International Labor Organization (ILO) adopted the Convention Concerning Decent Work for Domestic Workers (No. 189) at its 100th session in June 2011, South Korea has

¹ Research Fellow, Korea Labor Institute

experienced a marked increase in interest regarding both the working conditions and the protection of domestic workers engaged in employment agreements with private households. The ILO Convention includes guarantees to domestic workers of reasonable working hours, limits on in-kind payment, the provision of clear information on the terms and conditions of employment, and the right to enter into negotiations and collective bargaining. This historic convention on domestic workers has called upon society to examine the current situation of those employed in the domestic work sector, which remains unorganized and outside of the public eye, and consider what measures may be necessary to ensure their protection.

Domestic work has always existed in Korean society, albeit in varied forms and contexts. The status and characteristics of domestic work have been determined by specific socioeconomic contexts. The actual labor conditions of domestic workers and their legal protection have attracted worldwide attention in recent years since they exist outside of the realm of fundamental human and labor rights and other protections enjoyed by other workers in typical employment relationships in today's post-industrial society. Although much domestic work which was formerly performed by family members has now shifted into the sphere of monetary transaction, the economic activities carried out within or outside private homes in order to produce goods and services for consumption by individuals or families rather than for profit, have received little public attention until recently since they do not fit into existing standard employment relationships nor under related protective legislation. However, given the aging of the population and increasing employment of women, the emergence of modern forms of domestic labor is not a passing phenomenon, but has rather become a normal part of everyday lives. In this context, examining the issues related to domestic workers who have not been fully covered by existing labor laws and policies is the first step in accepting that domestic workers deserve the same rights and status as do other workers.

Thus, this study aims to examine the actual labor conditions of domestic workers in South Korea and discuss ways to protect such workers. The working conditions of domestic workers in employment relationships with private homes have yet to be systematically reviewed, and representative statistical studies include constraints on ascertaining the number of domestic workers currently engaged in the informal economy and their actual working conditions. Thus, this study delves into their real conditions of work and employment based on employment data collected in the Regional Employment Survey conducted in 2012 and suggests appropriate measures for their protection according to the type of domestic function in which they engage.

The Current Status of the Informal Domestic Labor Market ***Data Sources and the Scope of the Informal Domestic Workforce***

This study estimated the number of domestic workers based on data collected from the Regional Employment Survey. The purpose of this survey is to generate and provide basic statistical data to municipal governments in order to allow them to better understand trends in employment at their level and establish employment policies accordingly. For this reason, the sample size is large and three-digit data are produced on industrial sectors and occupations. The survey is conducted with permanent residents aged 15 years or over living in households during the period covered. Foreign nationals are also included in the survey but, since the primary sampling unit of the survey is the household, international domestic workers would have been likely to have been under-sampled if they had been included. Taking into account that international workers are largely engaged in live-in childcare or patient care, it should be noted that the number of international domestic workers projected based on data gathered from the survey has most probably been under-counted.

In relation to the definition of domestic workers working in informal employment relationships, a range of views and opinions have been presented in terms of the possibility, policy directions and strategies for legal protection, but these will not be enumerated here due to limitations of space. This study has adopted the definition presented by Jiyong Yoon (2013), of “those who commute to the home of the hiring individual (not a firm or enterprise) or otherwise to a place designated by the individual and regularly carry out domestic work such as housekeeping, patient care, childcare, chauffeur services, etc. under the command and control of the employer either for a certain period of time or without a fixed period.” According to this definition, the primary place of work for domestic workers is not limited to the confines of private homes, and it includes those who are employed by private households to perform not only typical “domestic work,” including housekeeping and caring for children, the ill or the handicapped, but also any other services that households may require (including chauffeur and garden maintenance services).

The representative occupational categories of domestic work in South Korea are listed above, but in order to determine in which other occupations domestic workers may be engaged, this study examines how they are distributed across occupational categories by applying sectoral and occupational variables to the results of the Regional Employment Survey. Among the useful source materials for this approach is the Korean Standard Industrial Classification (KSIC), which adopted a new occupational category of “activities of private households as employers of domestic staff (Code No. 97000)” in its 2009 revision. This provides clarity in determining precisely who can be identified as a domestic

worker. According to the KSIC, this new occupational category includes the activities of households as employers of domestic personnel such as cooks, maids, laundry workers, nannies, baby-sitters, secretaries, butlers, drivers, gardeners, tutors, etc. It is made clear in the KSIC that this category excludes “business agencies which supply and supervise workforce for the activities of private households as employers of domestic staff (Code No. 75120)”, indicating that domestic employment relationships are precisely those formed within the confines of private homes. That is to say, dispatched domestic workers in employment relationships with business agencies are excluded from the scope of occupational category 97000. In addition, in the survey, some respondents identified their employment status as “self-employed with employees”, “self-employed without employees” or “an unpaid family worker” despite these respondents being similarly employed by households. Among them, those who identified themselves as “self-employed with employees” or “an unpaid family worker” were not counted as a domestic worker in this study. Accordingly, domestic workers here refers to those who identified themselves as i) engaged in the activities of private households as employers of domestic staff and at the same time ii) a paid worker or self-employed without employees.

A case in point of those occupations excluded from “activities of private households as employers of domestic staff” is patient caregivers. They fall under the sub-major industrial group of “other personal services (Code No. 969),” and are more specifically classified as the unit group of “patient caregivers and other similar services (Code No. 96993)”. Of course, greater accuracy would be achieved if the survey were to subdivide data all the way to the unit group level, but it breaks them down only to the industrial sub-major group level. Another issue with the survey is that the data do not provide a clear distinction between patient caregivers who are in normal employment relationships and those engaged in informal relationships with private households. The unit group of “patient caregivers and other similar services” refers to “industrial activities performed by postpartum caregivers and patient caregivers who provide non-medical care to those who need help performing basic self-care activities,” irrespective of whether or not they are in formal employment relationships. In this regard, this study extrapolates patient caregivers working in informal employment relationships on the basis of the occupational categories in which they work. Among occupations, this study selects those falling within the category of “those engaged in medical/welfare services (Code No. 421)”. The problem with this approach is that those falling under both of the category of “other personal services” and the category of “those engaged in medical/welfare services” include licensed patient caregivers in formal employment relationships; that is, those who provide elder or patient care in direct employment relationships with institutions such as hospitals or senior care agencies. In this regard, given the fact that within this group of caregivers for the elderly are employed under contracts with senior care agencies, this study considers those who responded as having

fixed-term employment as being patient caregivers hired by institutions. In addition, those who identified their employment status as self-employed with or without employees, unpaid family worker, etc. are excluded from the scope of the informal labor force. As a result, among those who responded in the survey as being engaged in the category of “those engaged in medical/welfare services” in the industrial sub-division of “other personal services,” those without a fixed-term contract were taken in this study as patient caregivers working in informal employment relationships.

Based on this approach, Table 1 below suggests the scope of the informal domestic workforce. The primary domestic-work occupations are housekeeping and childcare, medical/welfare services, drivers and tutors (liberal arts, science/technology, and arts). This study excludes other miscellaneous occupations falling under the category of activities of private households as employers of domestic staff, not simply because the sample sizes involved were extremely small, but also because it is highly likely that it includes manufacturing laborers and travelling/street and market/telemarketing salespersons, etc. who provided incorrect responses regarding their places of work and employment relationships.

In the KSIC, patient caregivers are not explicitly included within the category of activities of private households as employers of domestic staff, but the Regional Employment Survey does group those engaged in medical/welfare services into this category. In other words, patient caregivers are covered not only by the category of activities of private households as employers of domestic staff, but also by the category of other personal services. It is unclear whether patient caregivers classified into the former category and those classified into the latter correspond to distinct places of work; that is, private homes and institutions, respectively. However, as this study focuses on patient caregivers working without fixed-term contracts under the category of other personal services, it was assumed that the above two groups of patient caregivers indeed did maintain different places of work despite the fact that both of them are engaged in employment relationships with private households. Since these two groups show differences in the actual conditions and characteristics of their informal employment relationships and thus require distinct approaches in pursuit of protection measures, this study separates and looks at the size and actual conditions of each group.

Table 1. Scope of the Informal Domestic Workforce

	Industries	
	Activities of Private Households as Employers of Domestic Staff	Other Personal Services
Occupations	Housekeeping and Childcare	Those Engaged in Medical/Welfare Services (including patient caregivers)
	Those Engaged in Medical/Welfare services (including patient caregivers)	
	Drivers	
	Liberal Arts and Sciences/Technology and Arts Tutors	
	Miscellaneous (Those engaged in barber shops/ beauty salons and related services, travelling/street and market/telemarketing salespersons, garment workers, manufacturing laborers, cleaners and sanitation workers, security guards and ticket examiners, agricultural, forestry and fishery workers, laborers in other services)	

Source: Regional Employment Survey 2012

Note: The group of those engaged in medical/welfare services under the category of other personal services includes only those who responded as working without a fixed-term contract. The miscellaneous occupations falling under the category of activities of private households as employers of domestic staff have sample sizes of five or fewer and are thus excluded from the following estimation of the size of the informal domestic workforce.

The Size of the Informal Domestic Workforce and Its demographic Characteristics

As of 2012, the total number of persons engaged in domestic work under informal employment contracts stood at 119,105, accounting for 0.51% of overall employment. Of this informal domestic workforce, housekeeping and childcare workers make up the largest portion, with approximately 96,131 persons engaged in this job category. This group of domestic workers accounts for 0.42% of total employment. At the same time, according to a survey conducted in the previous year on foreign workers working in South Korea, 19,785 foreign nationals (including 19,122 females) were found to be engaged in the category of “activities of private households as employers of domestic staff and other uncategorized production activities for self-consumption”. That is to say, some 2.55% of the 774,589 non-residents working in South Korea are engaged in domestic work under informal employment contracts.² By ethnic group

² As the survey on the employment of foreign residents provides data according to major industrial and occupational groups, it was not possible to analyze the data in the same level of detail as the Regional Employment Survey.

and nationality, non-Korean Chinese make up the largest group of the nation's foreign domestic workforce, with 18,374 women and 663 men working in the sector, followed by Korean-Chinese domestic workers (426), Vietnamese domestic workers (251) and Uzbekistani domestic workers (70).

Table 2. Size of the Informal Domestic Workforce

Units: persons, %

		Number of Employed	Percent of Total Employment
Residents	Total Employment	23,037,310	100.00
	Informal Domestic Workers	116,950	0.51
	Housekeeping and Childcare Workers	96,131	0.42
	Patient Caregivers employed by Private Homes	2,377	0.01
	Patient Caregivers under the Category of Other Personal Services	17,861	0.08
	Drivers	511	0.00
	Liberal Arts and Sciences/ Technology and Arts Tutors	70	0.00
Non-Residents	Total Employment	774,589	100.00
	Informal Domestic Workers	19,785	2.55

Source: Regional Employment Survey 2012, with a sample size of 2,883. Numbers for non-residents are calculated for 2011 using the Non-residents Employment Survey 2011.

By gender, 98.2% of informal domestic workers are women, demonstrating that informal domestic work is a typically female job, with the exception of chauffeur services. Specifically, patient caregivers employed by households are 91.5% female, and housekeeping and childcare workers are 99.1% female.

Table 3. Gender Distribution of the Informal Domestic Workforce

Units: persons, %

	Male	Female	Percentage of Female Workers
Total Employment	13,802,161	9,235,149	40.1
Informal Domestic Workers	2,090	114,861	98.2
Housekeeping and Childcare Workers	880	95,251	99.1

	Male	Female	Percentage of Female Workers
Patient Caregivers Employed by Private Homes	202	2,175	91.5
Patient Caregivers under the Category of Other Personal Services	489	17,371	97.3
Drivers	511	0	0.0
Liberal Arts and Sciences/Tech and Arts Tutors	7	63	89.5

Source: Regional Employment Survey 2011

By age, the average age of those engaged in housekeeping and childcare is 57.1 years old, while that of patient caregivers employed by private households, patient caregivers employed in the sector of other personal services, drivers and liberal arts and sciences/tech and arts tutors is 54.9 years old, 54.0 years old, 51.1 years old and 39.1 years old, respectively. Outside of private tutoring jobs, which are largely occupied by female college graduates, the majority of informal domestic jobs are carried out by middle-aged and senior women. Of those engaged in tutoring, 80.3% are women in their thirties. It appears that this job is a short-term temporary occupation taken until they are able to engage in a more secure position. However, given the fact that roughly 19.6% of the women engaged in this job are in their forties and fifties, it is likely that it can be a job begun initially by career-interrupted women reentering the labor market. The majority of the workforce engaged in housekeeping, childcare and patient care are women aged 50 years or over, indicating a strong possibility that these middle-aged and older women pursue the job as a means to earn a living. In addition, a significant portion of these female domestic workers have spouses. Some of the women serve as a primary breadwinner, while others work to contribute to household income. According to research conducted by Jayoung Yoon in 2012 regarding the actual conditions of domestic workers, in cases of informal domestic workers with married spouses, nearly half of their spouses were found to not serve as the main breadwinner due to a lack of regular income sources; not working because of retirement, disease or disorders; or being in the process of seeking a job. Furthermore, most of them are members of low-income households with an average monthly income of KRW 2,000,000 or less.³ In contrast, driver jobs, which are an exclusive male job

³ The survey was conducted with those engaged in housekeeping, patient care and in-home childcare under formal or informal employment relationships, and 996 responded. By occupation type, the total number of those responding as being hired in the informal domestic sector was 791, with 488 housekeepers, 227 patient caregivers and 76 in-home childcare workers.

according to the survey, are filled largely by those in their forties. Unlike other domestic-work jobs that are dominated by women, this job category has an even distribution of workers across diverse age groups. By academic background, excepting liberal arts and sciences/technology and art tutors, the remaining domestic jobs are generally held by those with a high school diploma or lower. What is noteworthy in this context is that the proportion of workers with a high school diploma only is slightly higher in the housekeeping and childcare work than in patient caregivers employed by private households.

Table 4. Demographic Characteristics of the Informal Domestic Workforce

Units: %

		Housekeeping and Childcare Workers	Patient Caregivers Employed by Households	Patient Caregivers Employed in the Sector of Other Personal Services	Drivers	Liberal Arts and Sciences/ Tech and Arts Tutors
Age	Average Age (years)	57.1	54.9	54.0	51.1	39.1
	15-20	0.0	0.0	0.0	0.0	0.0
	21-30	0.2	0.0	1.1	0.0	0.0
	31-40	2.0	0.6	3.9	19.1	80.3
	41-50	13.7	25.1	20.6	17.1	9.1
	51-60	53.3	50.4	59.4	57.1	10.5
	over 61	30.8	24.0	15.1	6.7	0.0
Marital status	Single	1.8	2.3	3.5	21.0	80.3
	Married, Spouse Present	65.7	59.0	74.0	79.0	19.7
	Married, Spouse Absent	22.9	32.7	10.0	0.0	0.0
	Divorced	9.7	6.0	12.6	0.0	0.0
Academic background	Completed Elementary School or Lower	30.9	27.0	15.1	6.7	0.0
	Completed Middle School	29.3	29.3	26.6	0.0	0.0
	Completed High School	36.0	43.3	54.1	29.9	0.0
	Completed College or Higher	3.8	0.4	4.3	63.4	100.0

Source: Regional Employment Survey 2011

The Actual Working Conditions of the Informal Domestic Workforce

Next, this study will examine the actual working conditions of informal domestic workers. First, according to their status of employment, a significant number serve in temporary or on-call employment relationships. In the Regional Employment Survey, housekeepers and childcare workers responded that they are “self-employed without employees”, illustrating that many of them are aware of their employment status. However, it also appears through the survey that there are not clear criteria by which domestic workers classify themselves as either a paid employee or self-employed.

Generally, informal domestic workers operate without a formal employment agreement and consequently without a guaranteed period of employment. Among the informal domestic workers studied by the Regional Employment Survey, the proportion of those who responded as working without a fixed-term contract was significantly high.⁴ More specifically, the percentage of such insecure workers in the categories of housekeeping and childcare workers, patient care workers hired by private homes and other personal care services are respectively 83.7%, 66.6% and 100% (those working on a fixed-term contract were excluded in order to sample informal patient care workers only). Furthermore, 80.9% of drivers and 100% of liberal arts and sciences/technology and arts tutors are not on a fixed-term contract. In the informal domestic sector, employment of one year or longer, which is relatively secure compared with other forms of informal employment, is extremely rare. Informal domestic workers are rarely in fixed-term employment and, even if they are, the most prevalent fixed term of employment is one month or less. Unlike other workers, lacking fixed-term employment means that domestic workers are not guaranteed lifetime employment. Since not forming an employment contract is considered the norm in the sector, the lack of a fixed period of employment means that employment relationships in domestic work may be terminated upon immediate notice or only a limited period of notice by either the employer or the employee. Although it is unknown which of the two parties more frequently terminates employment relationships, it is assumed that such terminations would be either a dismissal on the part of employers due to diverse demands (preferences, dissatisfaction, changes in plans, fulfilled demands, changes in other workers, etc.) or a voluntary resignation on the part of employees when requests made in negotiations to improve unfair treatment or other working conditions are not met.

For most domestic workers, the average period of employment was found to be less than 31 months, with the exception of the 118 months found for drivers. The question on the Regional Employment Survey was phrased as how long the respondent has been engaged

⁴ In the Regional Employment Survey, paid employees (in a regular, temporary or on-call position) were only questioned about whether or not they were on a fixed-term employment contract.

in the work, so responses to the questions were mixed due to some respondents understanding the question as how long they have been working for their current employer and others as how long they have been engaged in the field of domestic work. By occupation, drivers are found to have been performing their current work for the longest period of time. Patient care workers are found to engage in their care work for the shortest period of time compared with other domestic workers. However, patient caregivers employed by private households responded as doing the work for approximately 27.6 months. That stems from the fact that unlike other types of domestic work, patient care by its nature requires a set period of employment throughout the treatment of a patient's illness and until his or her recovery. Ironically, it is found that the period of work when not on a fixed-term contract tends to be longer than otherwise. Regardless of whether or not they are under a set-term contract, the fact that the period they responded as working at the job is longer than a year means that they are entitled to severance pay when their employment relationships terminate.

Table 5. Actual Working Conditions of the Informal Labor Workforce - Status of Employment and Employment Agreement

Units: %

		Housekeeping and Childcare Workers	Patient Caregivers Employed by Households	Patient Caregivers Employed in the Sector of Other Personal Services	Drivers	Liberal Arts and Sciences/Technology and Arts Tutors
Status of Employment	Regular Workers	0.5	3.4	24.0	10.8	-
	Temporary Workers	53.3	53.0	50.1	89.2	80.3
	On-Call Workers	33.1	26.2	25.9	-	-
	Self-Employed without Employees	13.1	17.4	-	-	19.7
Term of Employment	Not Set	83.7	66.6	100.0	80.9	100.0
	Less than One Month	11.4	17.5	-	-	-
	More than One Month but less than Six Months	0.7	2.3	-	-	-
	More than Six Months but less than One Year	4.2	13.5	-	19.1	-

		Housekeeping and Childcare Workers	Patient Caregivers Employed by Households	Patient Caregivers Employed in the Sector of Other Personal Services	Drivers	Liberal Arts and Sciences/Technology and Arts Tutors
	One year	-	-	-	-	-
	More than One Year but less than Two Years	-	-	-	-	-
	More than Two Years but less than Three Years	0.0	-	-	-	-
Period of Service Under Employment Contracts (months)	Average Period of Service in the Workplace	31.4	27.6	20.5	118.9	4.1
	Under Set-Term Contracts	27.9	22.1	-	-	-
	Not Under Set-Term Contracts	30.4	28.4	20.5	147	-
	Self-Employed	41.6	35.9	-	-	21

Source: Regional Employment Survey 2011

Note: In the survey, paid employees (in a regular, temporary or on-call position) only were questioned about whether or not they were on a fixed-term employment contract.

The next topic to be touched upon in this study is the working hours and wages of domestic workers. On average, housekeepers and childcare workers work for 39.7 hours per week, patient caregivers employed by households for 50.5 hours, patient caregivers employed in the sector of other personal services for 40.0 hours, drivers for 46.1 hours and liberal arts and sciences/technology and arts tutors for 27.1 hours. This indicates that patient caregivers and drivers work the longest hours, serving 40 hours or more per week. However, some of these diverse domestic workers are found to work extremely long hours, as the longest weekly hours of work found in the housekeeping and childcare category was 90 hours. Eighty-four hours was reported for patient care under employment contract with households and up to 98 hours in patient care under employment contract in the sector of other personal services. It is highly likely that these workers are live-in domestic workers. In the case of housekeeping and childcare work, they generally work 14 hours per day (without a day off). The weekly maximum working hours with legally permissible overtime are 52 hours. However, a whopping 45.1% of patient caregivers employed by households work longer than 52 hours. Additionally, 32.1% of housekeepers and childcare workers, including live-out housekeepers, work less than 30 hours a week.

The monthly pay of housekeepers and childcare workers taken as an average from three months is found to be KRW 734,000, while patient caregivers receive around KRW 954,000 per month. Drivers receive KRW 1,860,000 and liberal arts and sciences/technology and arts tutors receive KRW 402,000 per month. Thirty-eight percent of housekeeping and childcare workers are paid less than KRW 500,000 per month, since their working hours are relatively short compared to other types of domestic workers. The average monthly wages of domestic workers vary according to the number of hours they work per week. Generally, the longer they work, the more they are paid. However, in housekeeping and childcare work, earning is not necessarily proportional to the number of hours worked.

Average hourly earnings are not less than the minimum hourly wage of KRW 4,580 for 2012. However, for many live-in domestic employees working long hours, the resulting hourly wage falls below the national minimum wage. For housekeeping and childcare workers, especially the latter, the hourly wage tends to dip below the minimum wage if they work more than 40 hours in a week. Currently, 45.9% of them are paid less than the minimum wage. This highlights the fact that along with working hours, annual leave and holidays, fair wages are one of the central issues for the protection of domestic workers exposed to long working hours. Considering that outside of wages they receive no allowances for meals or commuting nor severance pay, their actual income is far too low for their hours of work.

Table 6. Actual Working Conditions of the Informal Labor Workforce
- Working Hours and Wages

		Housekeeping and Childcare Workers	Patient Caregivers Employed by Households	Patient Caregivers Employed in the Sector of Other Personal Services	Drivers	Liberal Arts and Sciences/Tech and Arts Tutors
Working Hours	Average Working Hours Per Week(hours)	39.7	50.5	40	46.1	27.1
	Minimum Working Hours(hours)	4	5	5	38	22
	Maximum Working Hours(hours)	90	84	98	60	50
	Less than 15 Hours	5.3%	3.8%	3.9%	-	-
	15-30 Hours	26.8%	23.4%	31.1%	-	80.3%
	31-40 Hours	25.3%	19.6%	27.4%	18.1%	-
	41-52 Hours	25.2%	8.1%	17.7%	74.3%	19.7%
More than 52 Hours	17.4%	45.1%	19.9%	7.6%	-	

		Housekeeping and Childcare Workers	Patient Caregivers Employed by Households	Patient Caregivers Employed in the Sector of Other Personal Services	Drivers	Liberal Arts and Sciences/Tech and Arts Tutors
Average Monthly Wages	Average Monthly Wage over Three Months (KRW tens of thousands)	73.5	95.4	93.4	186	40.2
	Less than KRW500,000	38.1%	22.6%	19.6%	-	100.0%
	KRW500,000 - 800,000	24.9%	24.2%	24.2%	6.3%	-
	KRW810,000 - 1,000,000	17.2%	13.6%	25.6%	4.6%	-
	KRW1,010,000 - 1,300,000	7.7%	2.0%	14.8%	4.6%	-
	KRW1,310,000 - 1,500,000	9.6%	19.5%	9.4%	2.1%	-
	More than KRW1,500,000	2.6%	18.0%	6.5%	82.5%	-
Average Monthly Wages by Working Hours (KRW tens of thousands)	Less than 15 Hours	39.4	2.4	36.9	-	-
	15-30 Hours	57.7	58.0	64.6	-	50.0
	31-40 Hours	71.8	40.1	107.6	200	-
	41-52 Hours	88.1	89.7	106.1	193.2	0.0
	More than 52 Hours	89.4	147.7	118.8	83.5	-
Average Hourly Wages and Working Hours (KRW)	Total	4,673	4,329	5,817	9,532	4,201
	Less than 15 Hours	8,532	363	7,581	-	-
	15-30 Hours	5,475	6,004	6,536	-	5,230
	31-40 Hours	4,339	2,370	6,398	11,967	-
	41-52 Hours	4,264	4,421	5,211	9,589	0.0
	More than 52 Hours	3,349	4,633	4,085	3,204	-
	Proportion of those Receiving less than the Minimum Wage	45.9%	46.0%	26.3%	7.6%	19.7%

Source: Regional Employment Survey 2011

The Regional Employment Survey does not provide details on social insurance coverage and employment relationships. However, according to other research, the rate of subscription of domestic workers to the nation's four major social insurance programs is very low. Their exclusion from coverage under the four social insurance programs can be understood as a lack of recognition of them as employed workers. However, despite that the National Health Insurance Program and the National Pension Program are available through either the employer of their spouse or voluntary subscription, many of them go uncovered. According to a study on informal employment in the care service sector conducted on the basis of the Korean Longitudinal Survey of Women and Family, only 6.2% of housekeeping and childcare workers are covered by one or more of the four major social insurance programs (Deoksoon Hwang, 2012). Since they work in the informal economy, they are ineligible for subscription to the Employment Insurance Program and the Industrial Accident Compensation Insurance, but many of them wish to be covered by these programs. The fact that they are not covered by government programs even when they experience a workplace accident is one of the greatest challenges faced by domestic workers. Furthermore, it has been found that three out of every ten patient caregivers working in a hospital have experienced workplace sexual harassment. The issue here is that since they are not employed workers under the Labor Standards Act, they are not covered by the provisions on protection against sexual harassment under the Act on Equal Employment and Support for Work-family Reconciliation (Jayoung Yoon, 2012). Consequently, domestic workers employed by households with no set term of employment have no option but to either abandon their job when they suffer sexual harassment at work or to personally bear the economic and psychological burdens incurred as a result of such incidents.

Directions for the Protection of Domestic Workers

As discussed above, because domestic work is not regulated or protected by labor legislation, domestic workers are exposed to insecure positions without fixed-term employment contracts, long working hours and low wages, exclusion from the four major social insurance programs, etc., working in harsh environments relative to other workers and denial of their labor rights. In addition, this study also found that their needs and the main focus of related legal protections differ depending on their type of job and form of employment.

Thus, rather than detailing legislative directions, this study suggests appropriate directions for the protection of domestic workers by their type of work and employment relationship.

The first issue to be addressed is the identification of the employers of domestic workers. This directly relates to precisely who should be held responsible for their protection. In principle, their employers are the households (or individuals) to whom their services are

provided. However, in addition to those parties who directly pay in exchange for their services, domestic work also involves numerous other stakeholders, including employment services agencies. In the case of patient care jobs, hospitals take on certain of the roles of an employer. In order to determine who their actual employers may be from among the various stakeholders, one important criterion is who in fact exercises command and control over their work. In this regard, the actual working conditions of patient caregivers differ according to whether they work in households or in hospitals or other institutions. This does not imply that it is an issue of whether or not the place of work is a home. For example, the primary place of work for drivers is outside the home, but they are in fact under the command and control of households (or individuals).

Who instructs, supervises and controls domestic workers is important in seeking measures for their protection. The reality is that forms of employment which can be counted as normal employment are sometimes considered atypical work and are thus excluded from labor law protections. A case in point is patient caregivers, whose employment relationships are formed between households (or individuals) and domestic workers, but their actual place of work is in hospitals. This may vary among hospitals, but in some cases hospitals directly determine the details of their tasks, provide them with instructions regarding these tasks and even oversee their hours and attendance. Because of a shortage of nurses, hospitals direct caregivers to carry out everyday tasks that would otherwise be performed by nurses such as checking temperatures, pulse rate and respiration rate; providing oral health care; measuring and recording food and liquid intake and outflow; and administering medications. Although patient care is necessary for the treatment and recovery of patients and medical facilities should thus be expected to provide it to in-patients, the patient care offered by hospitals is provided either by caregivers hired by households or workers dispatched by employment service agencies (Jiyoung Yoon, 2013). For patient caregivers working in hospitals or other medical institutions, it is reasonable to recognize the institutions with the actual command and control over them as their *de facto* employer.

For other types of domestic workers whose work is under the command and control of households (or individuals), households should be required to fulfill employer responsibilities and protect domestic workers in terms of working hours, wages, annual leave and holidays, severance pay and social insurance coverage. The problem comes that even if labor legislation were to be revised to this end, policy support might still be necessary to allow it to function in practice as intended. In order for such revised legislation to fulfill its protective function, households (or individuals) and domestic workers would need to voluntarily form employment agreements and make efforts to comply with them. If labor law legislation is overhauled to protect domestic workers, households (or individuals) and domestic workers would both enjoy benefits, but would also face transaction costs incurred by employment agreements and might thus be reluctant to comply. From the perspective

of domestic workers, the benefits involved would include eligibility for coverage under the four major social insurance programs and protection against unfair dismissal, among others. However, taking into account their low income and projected period of future employment, subscription to the four insurance programs would simply be a burden to some domestic workers. As for households (or individuals), it is unlikely that there would be any significant benefit. For households (or individuals) hiring live-in maids or patient caregivers, with employment contracts they would be protected against unreasonable and unfair acts such as the domestic worker threatening to quit unless they receive a raise in pay or leaving without notice to work for another household. Beyond these benefits, however, households will face filing and reporting burdens and the financial obligation to pay half of their employees' required contribution to social insurance programs, all of which they have never previously experienced. This will drive up transaction costs in the domestic work sector and create incentives for households (or individuals) and domestic workers to agree to avoid an employment contract and to include social insurance contributions in their wages. In other words, even if current labor legislation were revised with the intention of protecting domestic workers, policy supports would be necessary to minimize transaction costs in the sector and deliver real benefits and protections to domestic workers.

Such suggested policy supports include providing incentives to employers and domestic workers and streamlining red tape through establishing delivery channels, etc. One possible option is to exempt employers, as far as their purchased services are for meeting the needs of the elderly and children, from taxes on their contributions to social insurance programs, thereby incentivizing them to engage in an employment contract with their domestic workers. Given that education expenses are currently exempt from income tax, there would be little difficulty in extending this tax exemption benefit to include expenses provided for childcare, elder care or other care services as long as such services are deemed necessary. Some domestic workers would likely feel reluctant to form an employment agreement since they view income taxes and payroll contributions expenses. In this case, a possible incentive to draw them into the formal economy would be to extend cuts in income taxes and payroll contributions currently available to low-income families to domestic workers. Considering their average income level, most of them would likely be eligible for such tax breaks.

The final issue is the administrative and transaction costs incurred as households and domestic workers perform the necessary filings and fulfill their respective obligations. In order for households (or individuals) to meet their responsibilities and for domestic workers to enjoy the same employment status as other workers, they must gain a full understanding of their rights and obligations under labor laws. Labor legislation would likely deliver little effect without the involvement of a third party. This necessitates a public or not-for-profit infrastructure to promote the process. At the moment, job matching between

households (or individuals) and domestic workers is largely done by employment services agencies, with or without fees involved, and these third-party agencies serve as intermediaries for informal employment relationships established between households and domestic workers. However, they remain unregulated in terms of their exploitation and other illegal acts (Seongtae Kang, 2013). Thus, it is necessary to re-establish their role and status in order to better address the administrative transaction costs incurred as a result of employment relationships established between households and domestic workers.

References

- Deoksoon Hwang (2012). *The Actual Conditions of Informal Employment in the Care Service Sector and Policy Tasks to Formalize Care Work*, Korea Labor Institute.
- Jayoung Yoon (2011). *Actual Working Conditions of Domestic Service Providers and Measures to Protect Them*, National Assembly Research Service.
- Jiyoung Yoon (2013). *Legislative Directions for the Protection of Care Workers*, 2013 Spring Meeting, “The Grey Area in the Labor Law (1): Care,” Seoul National University Society of Labor Law, April 20, 2013
- Seongtae Kang (2013). *Informal Employment and Labor Laws Direction for its Regulation*, Korea Labor Institute.