NEW POLICIES FOR KOREA'S AGING LABOR FORCE: THE ROLE OF CONTRACTUAL MANDATORY RETIREMENT

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1. INTRODUCTION

Retirement is a complex social institution. For individuals, it represents a significant event in the life cycle and has impacts on the workplace, the labor market and the economy. When many individuals retire within a relatively short time, or when there are significant labor market or public policy shifts, as is the case in an aging society, retirement becomes a major public policy issue (Yang & Klassen 2010).

Among industrialized nations there is considerable variation in policies regarding retirement and the associated income security schemes (Lynch 2006: 15-43). With regard to retirement related policies, and particularly retirement ages, each nation has its unique set of institutional arrangements and policies (Fornero & Sestito 2005; Cooke 2006; Kim 2009b).

Extending the number of years that workers remain employed is a policy objective of governments in many developed nations (Taylor 2004; OECD 2006). Delaying the age of retirement is necessary to cope with aging populations, longer life spans and lower fertility rates, as well as limited state funds for income security and health programs for those no longer in the labor force.

While governments in most Western nations seek to delay retirement, Korean policy-makers, employers and workers face a situation in which workers already have long working lives, but, paradoxically, also face early retirement from their main lifetime job. As such, the Korean government and its social partners must undertake a more fundamental restructuring of labor market policies in response to an aging population.

In Korea, as is also the case in some other East Asian nations like Japan, retirement policies and patterns are quite different from those of most other OECD nations. The distinguishing feature for many workers in Korea is contractual – and often involuntary – retirement from one's main job at a young age, followed by second career in the self-employment or contract work. The contractual retirement age, found in almost all employment and unions contracts, varies from occupation to occupation. It is 65 for university professors, 61 for teachers, 60 for civil servants and lower in the public sector (58 in the financial services sector) and even lower in the manufacturing sector.

In some sectors and companies, workers are habitually forced – using formal and informal mechanisms – to retire years before their contractual retirement age. In the financial services sector it is common for workers to be retired in their early 50s. This is done through "honourable retirement" and "early retirement" and by other mechanisms, such as shifting workers to undesirable jobs. After contractual mandatory retirement, workers must continue to have paid work to avoid becoming poor, especially given long life spans and a small welfare state (Yang 2011a).

Although contractual mandatory retirement is universal in Korea, it is not necessarily accepted by workers, as one senior executive in a large financial services sector firm noted: "Most colleagues in my company want to work longer [than age 55], but they cannot speak out" (personal interview, Seoul, April 2, 2007). Indeed, the relatively young retirement age along with the non-voluntary and ageist nature of retirement results in low levels of life satisfaction, especially when compared to the experience of workers in Western nations (Shin 2007; Yang 2011b).

The conditions that have historically supported early contractual mandatory retirement, by maximizing its benefits and mitigating its problems, have changed in the past decade. Broad demographic trends such rapid population aging, increases to life expectancy and continuing low fertility are impacting in the labor market. At the same time, the economic sectors crucial to the export driven competitiveness of the economy are shifting from manufacturing to services.

At the level of employers, human resources management practices are being altered to resemble those of Western firms including greater emphasis on (individual) performance-based systems (Kim & Briscoe 1997; Lee and Lee 2003). Unions are beginning to view increasing contractual mandatory retirement ages as a concern for many workers (KOILAF 2010a, 2010b). The rise in female labor force participation has resulted – along with other factors – in a greater recognition of individual rights in Korean workplaces, especially in regard to gender (Cho, Kwon & Ahn 2010). Lastly, state policy has shifted too, for example, by gradually raising the age of eligibility for the National Pension Scheme from 60 to 65 which will further widen the gap between the age of pension eligibility and the age of contractual mandatory retirement.

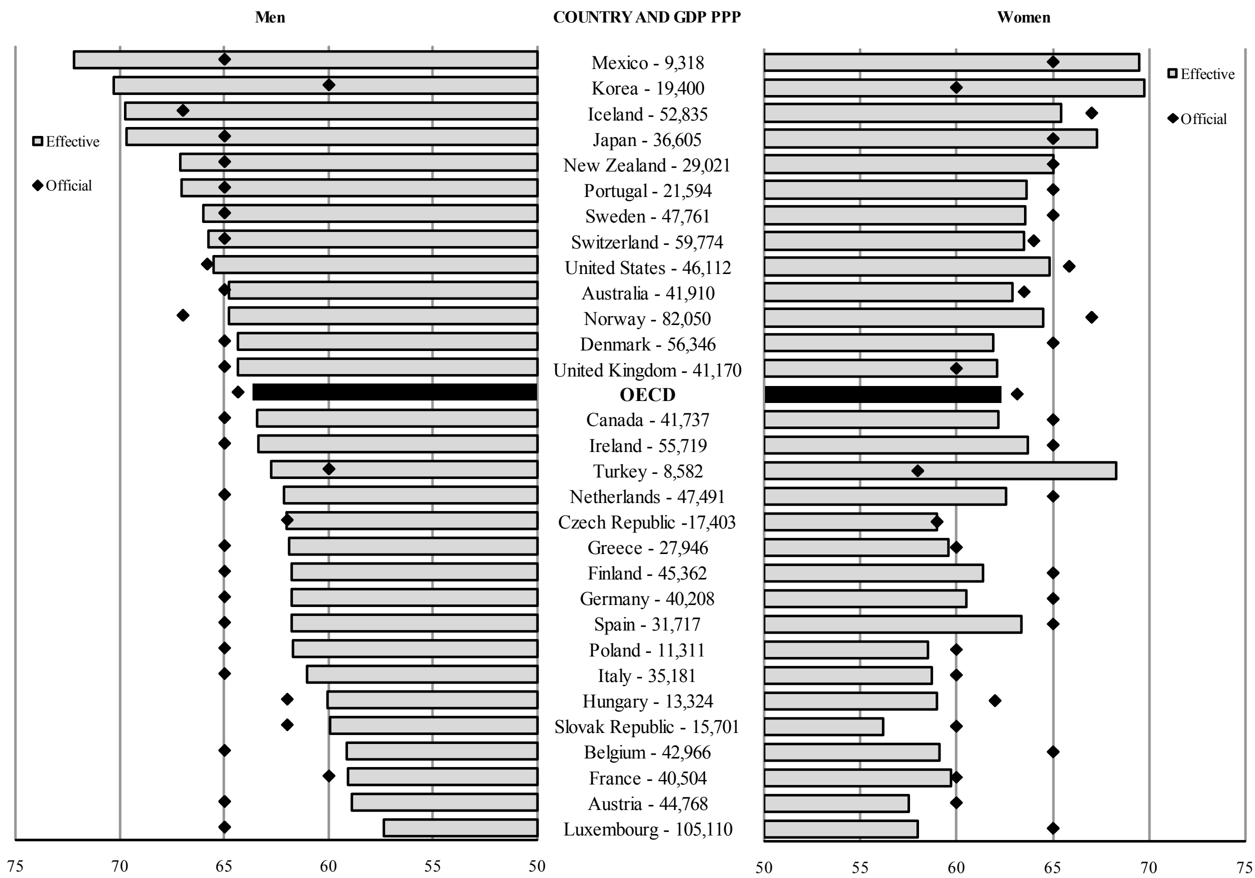
As one Cabinet-level official observed, the argument that mandatory retirement should be eliminated altogether "is an extreme position" in Korea (personal interview, Seoul, May 9, 2007). Nevertheless, given the trends and developments noted above, it is now timely and essential to examine the future role of contractual mandatory retirement in the Korean labor market.

The objective of this paper is to analyze how the experience of other nations can be applied to Korean policies on contractual mandatory retirement. The paper is composed of two major parts. The first is a review of economic theory and the experience of other nations, primarily those in the OECD that have increased the age of contractual mandatory retirement, or eliminated it altogether, so to reduce the number of years that workers spend in 'second careers.' This allows for evidence-based analysis later in the paper. The second part of the paper analyses the extent to which reforms to existing Korean contractual mandatory retirement practices and policies might be undertaken. Some of the data utilized in this part of the paper derives from interviews with Korean experts, stakeholders (employers and unions) and decision-makers conducted in Seoul in 2007 and 2011.

2. REVIEW OF THE EXPERIENCE OF OTHER NATIONS

Retirement policies and practices – including contractual mandatory retirement – arose in many nations during a time when labor market and economic conditions were quite different from those found today. As shown in Figure 1 below, there is no discernable pattern between retirement patterns and the economic performance of a nation. Some countries such as Mexico have high ages of retirement (over 72 for men) and low GDP, but some like Sweden also have relatively high ages of retirement (over 66 for men) but have have high GDP. Alternatively, some countries, such as the Slovak Republic have low retirement ages (60 for men) and low GDP, while other countries, such as France also have low retirement ages (59 for men) and high GDP. In most countries, the age of eligibility for full pensions is higher than the effective retirement age; in other words, workers generally retire before the normal pensionable age. A small number of countries have pension eligibility ages below actual retirement ages; in other words, workers generally continue to work even though they might be eligible for (some) pension income. The variation in retirement age and GDP in Figure 1 suggests that retirement ages are not particularly correlated with labor market and economic performance.

Figure 1: Average effective age of labour-market exit, normal pensionable age and country GDP at PPP (2004-1010)



Note: Effective retirement age shown is for five year period 2004-09; Source: OECD, updated from OECD (2006).
Pensionable age is shown for 2010.
GDP data is an average of four years (2006 to 2009) in current US dollars
GDP data from World Bank: http://data.worldbank.org/indicator/NY.GDP.PCAP.CD
adapted from: *Pensions at a Glance 2011: Retirement-income Systems in OECD and G20 Countries*, OECD 2011

Until the past two decades, OECD nations permitted contractual mandatory retirement, whereby employers, and unions, could legally insert a specific age at which workers are required to exit in employment contracts or collective agreements. This is made possible when labor and human rights legislation does not prohibit age-based discrimination employment practices. In most countries contractual mandatory ages were set at the age of pension eligibility; 65 in countries such as the United States and Canada, but sometimes lower in European and Asian nations. Korea is the only nation that does provide any age-based anti-discrimination protection for workers, allowing employers to set any age as that of contractual mandatory retirement.

During the past several decades, a number of nations have eliminated contractual mandatory retirement. This was typically done because of changes in demography and the labor market, as well as the view that contractual mandatory retirement was a form of discrimination. This section reviews the experience of five nations: the United States, Australia, New Zealand, Canada and Britain. A discussion of other European countries is also undertaken, while the experience of Japan is discussed in a separate section.

1. United States

In the United States, California was the first state to outlaw compulsory retirement in the late 1950's for some workers and other states began to do so as well. Federal legislation in 1978 banned contractual mandatory retirement before age 70. In 1986, mandatory retirement was eliminated altogether, except for university professors for whom it was removed in 1994. As such, for nearly two decades contractual mandatory retirement has not existed in the United States.

Studies of the elimination of mandatory retirement in various states of the United States have found that the representatives of unions and management, both in the private and private sectors, agree that the abolition was not a major problem. This is partly due to the fact that few workers remain employed past the previously normal retirement age, and that the vast majority of workers retire as soon as financially possible.

The experience of the United States indicates that the removal of mandatory retirement does not create dysfunctions at either the level of the individual workplace or more broadly with the economy. Indeed, researchers have proposed that the greater flexibility in making decisions about retirement in the United States allows that nation to better address economic and social challenges by continuing to draw on the productive efforts of older workers (Gillin and Klassen 1995).

2. Australia

Beginning in 1990, states in the Australian Commonwealth began abolishing compulsory retirement and including age in their anti-discrimination legislation. By 2001 all states and territories (except the sparsely populated Northern Territory) as well as the Commonwealth government, had removed compulsory retirement for their own workers and well as most industries. This was done, according to the Commonwealth government, as a way to change attitudes about the abilities of older workers and to remove artificial and archaic boundaries between work and retirement.

There is no indication in the academic literature or the public policy discourse that these changes have had detrimental impacts on Australian productivity, unemployment rates or other social or economic conditions. A review of industry publications does not find any evidence that the ban on mandatory retirement has been problematic, increased costs or had undue negative impacts. Instead it has been accepted and has become part of doing business.

3. New Zealand

In 1993, New Zealand introduced changes that made it generally discriminatory for an employer to require an employee to retire from employment by reason of that employee's age, so that compulsory retirement would no longer be possible. The revised *Human Rights Act* took effect in 1994, but the specific provisions on mandatory retirement did not take effect until 1999. There were no problems and the OECD found that the elimination of mandatory retirement in New Zealand "was deemed good for both older and younger workers, given the changing demographics of the labour market" (OECD 2000: 29).

4. Canada

Contractual mandatory retirement was largely eliminated in Canada between 2006 and 2009, although two sub-national jurisdictions (Quebec and Manitoba) had done so during the 1980s. Private sector workers under the jurisdiction of the federal government – approximately 8% of the work force – continue to face mandatory retirement, although the federal government is planning to end this practice. As in other nations, not all employers were initially supportive, and unions were generally opposed, however once implemented, there has been no opposition or problems (Gillin, MacGregor & Klassen 2005). Again, as was the case in other nations, seniority-based pay schemes, as those in universities, have continued to exist. Lastly, and as the case with the other nations, retirement patterns have not undergone significant shifts.

5. *United Kingdom*

Mandatory retirement was eliminated in the United Kingdom in April, 2011. Prior to this, from 2006 to 2011, age 65 was the mandatory age or retirement. Before 2006, employers were able to determine a contractual retirement age with most setting an age between 60 and 65. As such, like the United States, the United Kingdom moved in steps to ban mandatory retirement completely.

As with the other nations that have abolished fixed retirement ages, there are some groups of workers that continue to face contractual mandatory retirement, such as those in public security and safety occupations. Employers can, if shown to be "objectively justified," impose a fixed retirement date but few in the private sector have done so.

Lastly, as with the other Anglo-Saxon nations reviewed, the government considered the constitutional (human) rights of older workers. All the Anglo-Saxon nations have a tradition, strongest in the United States, of enshrining equal opportunity in the workplace, and preventing discrimination based on individual characteristics such as gender, family status and age.

6. Other European nations

Although European law bans age discrimination as a general principle, it allows individual countries the flexibility to introduce discriminatory measures such as mandatory retirement ages if they carry a wider justification. The European Court of Justice (Europe's highest court) has stressed that laws permitting mandatory retirement must be accompanied by the adequate provision of pensions for retirees.

In the nations that continue to have laws permitting mandatory retirement, the policy is contentious. The arguments for retaining required retirement ages are three-fold. It is these that the next section the paper now turns.

3. LABOR MARKET PERFORMANCE

Public policy debates about mandatory retirement in countries that continue to have fixed retirement ages revolve around the extent to which banning contractual mandatory retirement impacts labor market performance. Three relationships are at the core of this debate. This first is the relationship between youth unemployment and older workers remaining longer at employment positions; second, the relationship between age and productivity; and third, the relationship between age and compensation.

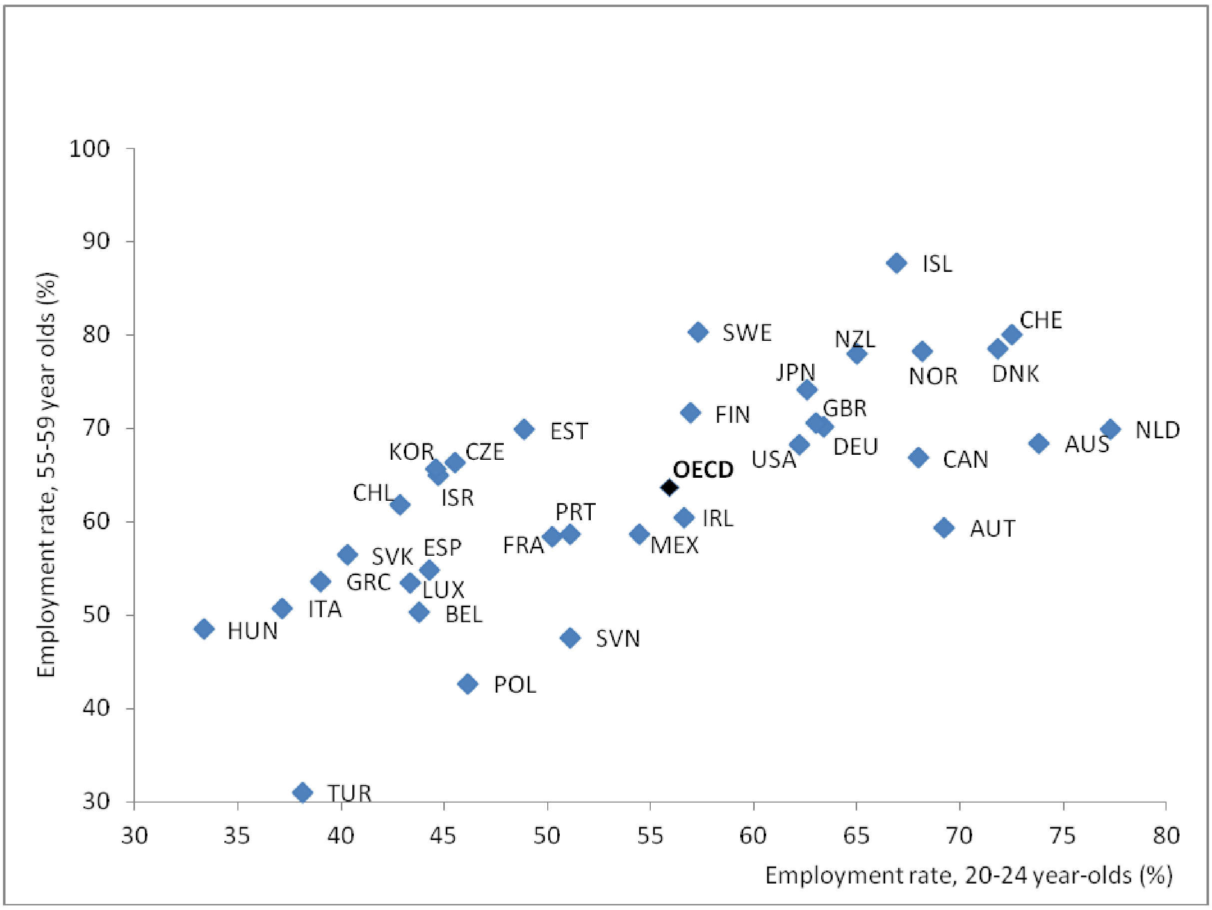
Fortunately, over the past decades economic theory and empirical research on the effects of contractual mandatory retirement, and its elimination, on the labor market and workplace has addressed these relationships. Below is a review of each of these three relationships with a focus on both the theory and the experience of other nations.

i. Youth unemployment and older workers

It is now well recognized that banning mandatory retirement will not create employment positions for young people in the economy as a whole. To argue otherwise is the lump of labor fallacy – that there are a fixed number of jobs in the economy. Although appealing from a common sense perspective, limiting employment opportunities for some workers – such the old or females – will result in an overall decrease in economic activity and decline in the total number of jobs in an economy. The experience of France illustrates this when that nation sought to decrease weekly working hours for all workers to create jobs for youth, but rather finding the opposite result with higher rates of unemployment for young people.

The OED has stated that "It is important to dispel a number of myths… for example, the claim that fewer jobs for older workers results in more jobs for younger workers, though unfounded, is proving especially stubborn" (OECD 2006: 13). Recent analysis from the OECD, as illustrated in Figure 2, shows that the employment rates for younger and older workers are positively correlated and highly significant in statistical terms; as one increases so does the other. As such the OECD concludes: "The idea that public policy can re-shuffle a fixed number of jobs between workers of different ages is simply not true" (OECD, 2011: 76).

Figure 2: Percentage of 55-59 and 20-24 years in employment in OECD nations (2009)

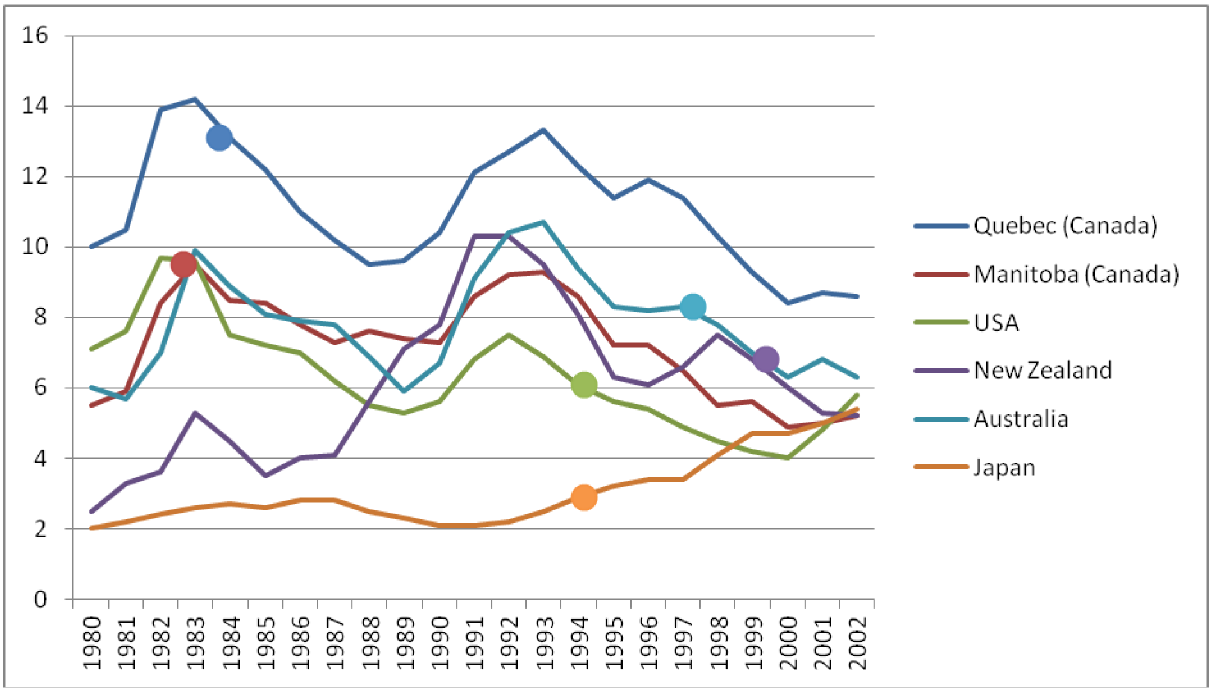


Source: OECD (2011) Figure 4.6

All nations that have eliminated mandatory retirement altogether, or increased the age, have seen no increase in youth or total unemployment rates. As seen in Figure 3, the elimination of contractual mandatory retirement, or the increase of the age of mandatory retirement in Japan, is not correlated with increasing unemployment rates. Rather, unemployment and labor market participation rates are a result of broader economic and societal conditions.

Figure 3: Unemployment rates by jurisdiction and date of the elimination on contractual mandatory retirement (1980-2002)

(circles show the date mandatory retirement was eliminated; for Japan raised from 55 to 60)



Sources: Quebec and Manitoba data from *Statistics Canada Labour Force Historical Review*. United States data from *Handbook of US Labor Statistics*, 6th Edition, Ed. Eva E. Jacobs. Japanese data Japan Statistics Bureau (historical series #2). from Other data from *Datastream 4.0.*

Note: The Australia date (1997) is an average given that individual states of the Commonwealth of Australia abolished contractual mandatory retirement in different years.

It should be noted that in all economies – whether they have contractual mandatory retirement policies or not – the unemployment rate for youth is higher than for older workers. The transition from school to work is often not a smooth one as individuals and employers seek to make appropriate matches. If youth unemployment is deemed a problem, then there are other policy levers than can more effectively address, including education and training policies, rather than contractual mandatory retirement (OECD 2007).

In conclusion, economic theory and the experience of other nations are unequivocal: contractual mandatory retirement does not create employment positions for youth. The young-worker argument is particularly archaic in Korea which has a rapidly aging population with comparatively few, and declining, numbers of younger workers.

ii. Age and worker productivity

The productivity of older workers has been subject to a longstanding and extensive study in the academic literature. The landmark review of job performance and aging in 1983 found inconclusive results noting that no generalizations can be reached with the exception that older workers have difficulties is those rare, and disappearing, jobs that required maximal levels of physical exertion (Doering, Rhodes & Schuster, 1983). Meta-analyses (studies that summarize the findings of many previous studies) of the relationship between age and job performance have found an average correlation close to zero (Martocchio 1989; McEvoy & Cascio 1989).

Other major studies reach a similar conclusion. One study concluded that although “an impressive body of literature is available on health, aging and work, few conclusions are broadly generalizable” (Pransky 2001: 437). A review of past research noted that “the best conclusion that can be made regarding the relationship between age and performance is that there is no consistent relationship across settings” (Farr, Tesluk and Klein, 1998: 149).

The findings of the scientific studies lead to only three broad generalizations regarding the relationship between age and job-performance. The first is that any such relationship is mediated by other variables from “human resource practices, such as training policies and reward systems, to the nature of the immediate work environment in terms of supervisory practices and the way in which work is performed” (Farr, Tesluk and Klein 1998: 155). Indeed after an exhaustive review of research in this area, the conclusion reached was that “the performance of older workers is not necessarily either better or worse than that of younger workers but that other factors such as level of motivation, self-reliance, recognition, experience, and job demands may influence performance with age” (Laczko & Phillipson 199: 35).

The second generalization is that older workers have assets, such as experience and reliability that can compensate for any deficits in physical functioning (Berkowitz 1988: 111). In other words, older workers in a particular occupation have attributes and qualities that younger people do not have, or have to a lesser degree, including a greater degree of experience and knowledge. The third generalization is “that there is more variation in physical and cognitive abilities among older people than among the young” (Pransky 2001: 435). This means that among any group of older workers there can be expected to be more variability with respect to abilities and skills, than among a group of younger workers. The greater variation suggests that any arbitrary employment cut-off age, such as age 50, 55, 60 or 65 is inappropriate from the perspective of both employers and employees.

There is no evidence that any specific age marks the beginning of a decline in work-related abilities for any group of workers. The extensive research to-date demonstrates that specific individuals, occupations, economic sectors and workplaces have unique characteristics that accommodate older workers, which must be examined and taken into account. Thus, there is no evidence that, for most occupations, older workers are less productive than younger workers.

The experience of other nations is that once mandatory retirement is eliminated or the age increased, it is typically the most motivated, and productive, workers who elect to work longer. This, on its own, ensures that there is no loss of productivity even as older workers remain employed longer. Lastly, if productivity is of concern to employers, then they "need to be more concerned about *younger* workers whose productivity is poor or declining. Those workers have far more years ahead of them in which they might constitute a burden to their firms..." [emphasis in the original] (Kesselman 2005: 174).

iii. Age and worker compensation

One argument in support of mandatory retirement made by some economists is that older workers are paid more in compensation than their current worth (or productivity) to the firm. In other words, workers, especially those in a workplace with a seniority system, are underpaid when young and early in their careers, and then paid more than their economic contribution later in their careers thus justifying being retired at a fixed age (Lazear 1979). However, for the deferred compensation argument to hold explanatory power, all workers must be hired at a very young age, receive training only in their first few years, and continue to work in the same manner and with the same technology as when hired, in employment/union contracts that never change, and all have equal productivity. Furthermore, employers must not have any means to terminate employees other than to wait for them to reach the age of contractual mandatory retirement (Kesselman 2005).

In Korea, in workplaces with seniority-based wages, the model has some applicability. However, there is evidence that Lazear's model does not accurately explain long-term employment contracts and mandatory retirement (Stern & Todd 2000). As recent evidence shows, the productivity of workers increases over time especially if new workplace technology is introduced, and this could account for higher wages that are paid for older workers (Kotlikoff & Gokhale 1992; Prendergast 1999).

It can also be argued that mandatory retirement causes lower productivity among older workers. If firms and individuals know that employment termination is imminent, there is little incentive for investment from either party on training and other forms of human capital development. Moreover, "mandatory retirement is one of the most important determinants for complete retirement from the labour market" even in countries like Japan (Seike, 2010: 313). The complete withdrawal from employment, and other associated costs (such as greater state expenditures for individuals not in the labor force), are not included in Lazear's model. Indeed, Lazear's model assumes that workers move from employment earnings to pension earnings, which is not the case in some countries, including Korea. In short, contractual mandatory retirement may be rational for some firms in particular conditions, but not for the economy as a whole.

Although typically employers argue that older workers are overpaid relative to their productivity, there is little empirical evidence. Even if this is the case, then there are options – other than mandatory retirement – to address the situation, such as additional training for older workers, retirement incentives, wage subsidies for older workers, the renegotiation of salary, peak salary schemes, and performance-based compensation schemes. The nations that have completely eliminated mandatory retirement are those in which seniority-based wages are not widespread, but do exist in some industries. In Japan, where this type of compensation is common, contractual mandatory retirement remains is set at age 60. Given the similarity of the Japanese and Korean labour markets, workplace policies, and well as population aging and public policies, the next section of this paper focuses on Japan.

vi. Japan

Japan's labor market resembles that of Korea: a rapidly aging population, seniority-based wages and contractual mandatory retirement at a relatively early age (but later than Korea). Like Korea, companies have had informal ways to persuade workers retire to retire as ages younger than those specified by employment contracts. And, like Korea, employers and cultural norms are averse to having younger workers supervise older workers (Lincoln & Nakata 1997).

Until 1994 contractual mandatory retirement age was 55, at which time it was increased to 60 years of age, with a further graduate increase to age 65 by 2013. However, employers may bypass the increased in contractual mandatory retirement to 65 by offering to continue to employ workers who wish to work beyond age 60. Employers are able to select those workers they wish to re-employ, and are free to determine the conditions of work (pay, hours, etc.). As thus, the mandatory retirement age effectively continues to be 60 for the majority of workers. Nevertheless, it is significant that Japan has sought to increase mandatory retirement to age 65, if only symbolically.

Age 55 for contractual mandatory retirement in Japan was well in place prior the Second World War when life expectancy was shorter (Martin 1982: 33). Starting in the 1970s and for a period of more than two decades, Japanese policy-makers sought to increase the age to 60 with only limited success with ultimately public, and political pressure, needed to institutionalize age 60 in the 1990s, where (as discussed above) it has remained since and seems likely to remain for the foreseeable future.

In Japan, contractual mandatory retirement "reduces the probability of labour force participation of men aged 60-69 by about 20% *ceteris paribus"* (Seike 2010: 313). In other words, mandatory retirement completely removes workers from the labor force who otherwise would have continued to work. It has been estimated that raising the mandatory retirement age from 60 to 65 in Japan would increase GDP by 12.3% (Clark, et al. 2008). Notwithstanding the overall benefits to the economy, employers, especially the large conglomerates, are staunchly opposed to any increase in the age of contractual mandatory retirement.

In summary, Japan has adopted a gradualist approach to increasing retirement age, driven primarily by the interests of large employers. Given the stagnant rate of economic growth in the Japan during the past two decades, it is difficult to argue that Japan is necessarily a successful model of coping with an ageing workforce.

v. Summary

The tenets of economic theory are borne out by the experience of other nations during the past 25 years. The removal of contractual mandatory retirement has had little or no discernable impact, notwithstanding opponents (usually employers) having predicted major negative impacts. Mandatory retirement has been completely eliminated, or its age increased, in a number of countries over the past two decades. There is no evidence that younger workers have been disadvantaged; that productivity has suffered; or that compensation levels have been harmful to employers. Thus, the empirical evidence is clear that removing contractual mandatory retirement has not resulted in dysfunctional effects.

Some countries increased mandatory retirement in steps (such as Japan from 55 to 60, and in the United States from 65 to 70 and the eliminating it altogether). In some cases, particular sectors (such as post-secondary education in the United States) were given additional time to adjust to the elimination of mandatory retirement. In all jurisdictions, there was time provided for employers and workers to adjust to the new retirement ages. All nations, in part, acted to increase mandatory retirement ages due to changing demographic conditions and to support economic growth.

The international experience and evidence for economic analyzes are useful to contextualize policy options for Korea in regards to mandatory retirement. However, as shown in Figure 1 and in the review of countries, retirement ages are a function of unique characteristics and conditions faced by a nation. As such, the paper now turns to consider contractual mandatory retirement in Korea.

4. THE KOREAN CASE

The experience of other nations is a useful starting point to analyze Korean policy in regard to contractual mandatory retirement. The Korean economy is an open one, with half of the GDP earned from exports and most of export industries in internationally competitive sectors (such as automobile manufacturing, electronics, information technology and related). Increasingly jobs in Korea are in the white collar and service sectors, rather than in manufacturing.

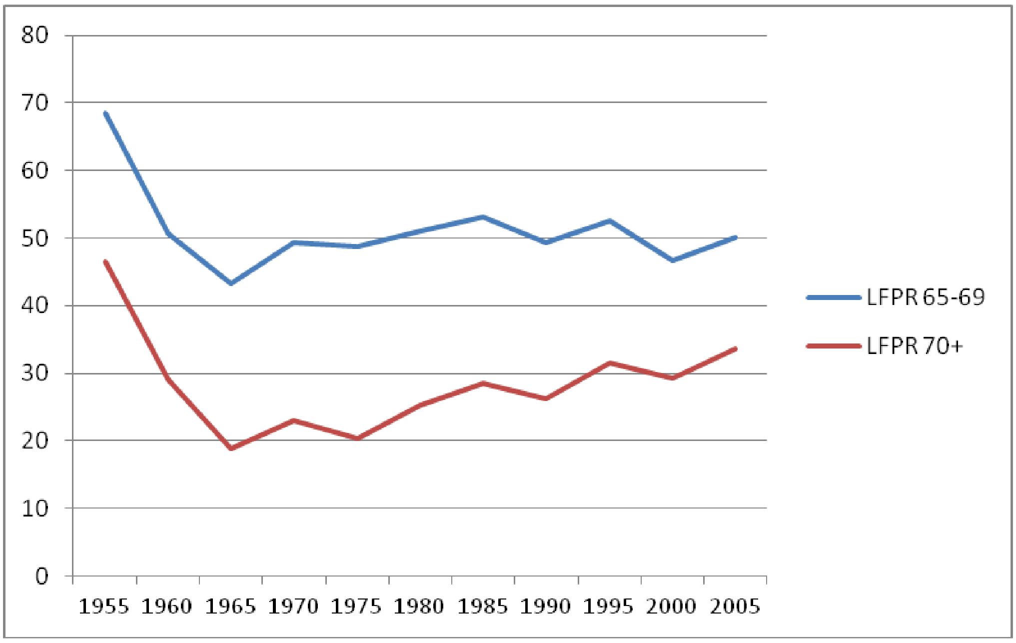
Korean public policy attention to retirement, and specifically contractual mandatory retirement, is recent. It was only in 2006 that concerted attention was placed on the labor market participation of middle aged and older workers with a tripartite agreement to increase participation rates. Previously, labor market policy focused on responses to economic crises, labor relations, and active labor market measures (Yang 2010: table 2). Legislation on dealing with retirement ages has been sparse. The 1991 act to promote the employment of older workers encouraged companies to make efforts to set the retirement age at 60, but actually tried to do so (Lee 2010b).

In analyzing contractual mandatory retirement policies in Korea, four key aspects of workplace and labor market arrangements are studied: i) working lives, ii) worker preferences, iii) seniority-based wages, and iv) human rights. These were selected because they feature most prominently in public debates on contractual mandatory retirement in Korea and are critical in shaping policy responses.

i. Working lives

Working lives in the Korea are among the longest in the OECD nations with the average age of retirement slightly above 70 as shown in Figure 1. In addition, working hours for many workers prior to mandatory retirement are long. The labor market participation rate of older workers has remained high and stable for the past five decades. As shown in Figure 4, in 2005, 50% of men 65-69 were in the labor market, while 34% of those over 70 remained in the labor force (Lee 2010a). More recent figures reveal that in 2010, 36% of those 65 to 79 were in the labor force (Korea National Statistical Office 2010). A part of the explanation for these extraordinarily high participation rates are rural workers. However, given that the number of farm workers has declined of the past decades due rapid urbanization and industrialization, it is the case that a significant proportion of urban workers continue employment well into old age often in self-employed or as contract workers.

Figure 4: Average labor force participation rates for Korean men (1955 to 2005)



source: adapted from Lee (2010a) Table 8.1, page 289

Working lives are long as are working hours, in large part, because pension income after contractual mandatory retirement is low. In 2010, slightly less than half (46%) of those 55 and older reported receiving pension income and of those who did have such income 85% received less than 500,000 won per month (Korea National Statistical Office 2010).

ii. Worker preferences

Recent survey research has found that the majority of Korean workers (59%) are willing to accept a reduced salary for an opportunity to work past their retirement age (Asian HR eNewsletter 2011). Of those, 55% expressed a desire for 4 to 5 year extension of employment with 37% willing to take up to a 20% salary cut (Asian HR eNewsletter 2011). More generally, worker preferences are for predictable and secure employment income that allows for a long period of retirement without undue financial hardship (Profeta 2002).

In 2010, the Federation of Korean Trade Union (FKTU), of the two large labor federations, supported increasing the contractual mandatory retirement age to 60. The rationale by the FKTU was that such an extension would assist in addressing population aging and provide greater financial security for older workers (KOILAF 2010a, 2010b).

Individual unions, rather than union federations, have a less clear stance on mandatory retirement because they are the locus of an intergenerational schism. Younger members of the union typically support mandatory retirement believing that it creates opportunities for their advancement in the firm. Older workers, as discussed above, wish to see contractual mandatory retirement eliminated, or at least the age extended. Individual workers, especially those who are older, are constrained to challenge the existing regime for fear of appearing to be selfish. As one union official noted, “the young-old tension [in his union] represents a special challenge” (personal interview, Seoul, July 13, 2011). Indeed, academic research “suggests that the labour unions may tacitly approve” of mandatory retirement practices (Cho & Kim 2005).

In summary, there is no doubt that many workers prefer an increase in the age of mandatory retirement. As workers reach the mandatory retirement age, they are more likely to wish to work past this age at their main job, and are willing to accept a reduction in employment income to do so.

iii. Seniority-based wages

Seniority-based wages are seen by employers as the main barrier to increasing the age of contractual mandatory retirement. Seniority-based wages in Korea mean that all those hired in the same year by a firm – who are usually all the same age – are given identical pay increases each year. The cohort is also promoted as a group, especially since workers do not want to report to someone who is younger. Employers argue is that the wages of older workers are greater than the contribution (productivity) to the firm, and that mandatory retirement is to only means to deal with the discrepancy.

However, “honorable retirement” (early retirement with a lump-sum payment of one to two times annual salary) practices do provide employers with the ability to terminate workers with low performance at any age (Yu & Park 2006). As such, the notion that employers must wait for workers to reach contractual mandatory retirement is not completely accurate. Of course, “honorable retirement” is also used to terminate older workers, but a more limited application of this practice provides employers with the means to remove workers with chronic low performance and to respect seniority-based wages.

Group harmony ("in-hwa") and teamwork are core features of Korean workplace (Kim & Briscoe 1997). These features, according to many employers and unions, are supported by seniority-based wages. Yet, there is no reason why harmony and teamwork cannot be retained in the absence of contractual mandatory.

iv. Human rights

Contractual mandatory retirement became the norm in the 1960s and 1970s when Korea was quite different from the present. At a time when it was still common for women "to retire" once they married (on the rationale that they should become homemakers) or for married women "to retire" once pregnant (on the rationale that pregnancy would distract others and that women should not combine motherhood and paid employment). Such gender based human resources practices and policies now seem more and more peculiar with the well established contributions of women in the labor force.

Notwithstanding the many societal and labor market changes in the past decades, age discrimination in the form of contractual mandatory retirement continues to linger. There are no laws in Korea that prohibit setting a retirement age, and retirement is not considered age discrimination (Shim 2010). As such, contractual mandatory retirement is not age discrimination according the existing legislation. A very small number of legal challenges of contractual mandatory retirement have reached the courts and the courts have invariably found that mandatory retirement provisions are legal. Korea is the only nation in the OECD that does not legislate a minimum mandatory retirement age, leaving employers with the freedom to set nearly any age, no matter how low.

Age based distinctions are deeply rooted in employment practices in Korea, and especially in determining layoffs and retirement (Chang 2003). For instance, Korean laws classify those 55 and older as "aged" and those 50-55 as "semi-aged" notwithstanding that individuals in these ages generally are as health as those younger (Hong and Lee 2011). The national statistical agency and others defines "old" as beginning at age 55.

There are signs that age discrimination is becoming a broader public policy concern, which should be expected in a rapidly aging population. The National Human Rights Commission established in 2001 has ruled on a number of cases on mandatory retirement and established the principle that an organization must justify the practice of having different retirement ages for different groups of workers. Although, the rulings of the commission are only in the form of recommendations, they have had some influence on public sector employers. For example, because of the rulings of the Commission the government has replaced the previous retirement ages of 58 or lower-ranked workers and 60 for higher-ranked workers, with a uniform retirement age of 60 (personal interview, Seoul, July 21, 2011).

Since 2005 with the introduction of affirmative action requirements for employers, gender discrimination has received greater attention from employers, with some improvement in the status of women in the workplace (Cho, Kwon & Ahn 2010). The focus on gender discrimination has not yet translated to age discrimination, but this may yet happen. The 2008 *Korean Age Discrimination in Employment Act* prohibited hiring decisions based on age. Its passage represented a recognition that age based distinctions in the workplace are discriminatory, and it is not a significant leap to argue that if age based hiring is illegal, so should be age-based retirement be illegal.

In summary, mandatory retirement involves making a decision about employment based on a single characteristic – age – that is unrelated to workplace performance. The trend is Korea is toward greater attention to human rights and to policies that avoid discriminating against groups of individual in workplace relationships due to gender and (in regard to hiring) on age.

5. WHAT IF?

Based on the experience of other nations, and economic analysis, it is possible to delineate what would occur if mandatory retirement were eliminated altogether in Korea. This section sketches what is likely to be outcome.

As with every other nation, a legislative decision to abolish mandatory retirement would provide a year or more for workers and employers to make adjustments. As some nations have done, the abolition could be step-wise, perhaps first age 60, with an ordered increase some year later 65 and then removed altogether. Alternatively, some sectors could be given more time to implement the increases and complete abolition. Companion legislation would prevent employers from arbitrarily laying off older workers; in other words, "honorable retirement" would become less prevalent).

As with other nations, there will be no consensus by business and labor on extending retirement ages. The suggestion that social dialogue will cause consensus between the labor force partners to arise is not supported by evidence. The Korean government would have to act in opposition to powerful stakeholders in order to deal with the social and economic consequences of a rapidly aging population, and also mindful of the experience of other jurisdictions.

As in other nations, the retirement patterns of workers would not undergo an immediate transformation. Many workers would continue to retire from their main job at around the age that previous cohorts had left employment. A proportion of workers, perhaps half would decide to remain past the current retirement age. Most of those would remain an extra three or four years, at the most. The experience of other nations is clear that very few – and only the most motivated – remain employed for longer than this.

The percentage of workers that would remain past the current retirement age will in large measure be a function of employer policies. Those employers that wish to have workers retire early will have the option to encourage (but not coerce) early retirement using various incentives.

Pay schemes would need to be revisited in some cases, but not in all cases. In those countries that have eliminated mandatory retirement, the sectors with seniority-based wages – such as universities – have continued to employ the same seniority-based wages without detrimental impacts. For example, in the United States and Canada, most universities have seniority-based wages (as do Korean universities) and had, until its elimination, mandatory retirement at age 65. Once professors could work past age 65, 15% to 20% did so, for an average of 18 months. Most did so to complete major research projects. Almost all those who worked past age 65 were high performing individuals who were eminent in their field of knowledge. In short, there was no disruption in the workplace.

Other workplace policies might reasonably be examined as well. For instance, phased or gradual retirement programs could be constituted so that retirement becomes a more process, rather than an event.

There are already workplaces that have extended retirement ages in Korea, especially in manufacturing and process oriented industries. For instance, YK Steel – a unionized firm – has increased contractual mandatory retirement from 57 to 59 by implementing a peak wage scheme. The scheme means that 58-year-old workers receive 90% of their basic salary and 59-year-olds 80%, and are entitled to benefits and wage increases while retaining their rank and position. The company also provides the option for those 60 to 65 to remain employed on a contract basis (Ministry of Employment Labor 2010). In another example, GS Caltex Co., the second largest Korean refiner, is raising its retirement age from 58 to 60, with the base pay for workers aged 59 and 60 fixed at 80% of their pay at 58 years of age (Asian HR eNewsletter 2011). These and other examples, illustrate that in the Korean context, it is possible to increase retirement ages and retain the core elements of seniority-based pay.

The scenario sketched out above differs considerably from that often presented by employers, as well as union and government officials, in Korea. The future offered by workplace partners should contractual mandatory retirement be reformed – at least for public consumption and for negotiation tactics – is one filled with workplace chaos, intergenerational conflict and loss of productivity. None of this will occur if contractual mandatory retirement is eliminated in Korea. Workplace reforms would occur, especially in regard to seniority-based wages and promotion, but these can transpire gradually, naturally and without dysfunction.

6. CONCLUSIONS

There has been a transformation of the Korean labor market in the past three decades, including increased participation of women in the labour force. Moreover, there has been a broader transformation of economic activity, including the rise of the service sector and use of new technologies. Lastly, there have been dramatic shifts in the demographic structure, including a changing life cycle, longer lifespan, low fertility, and rapidly aging population.[1] Throughout these extraordinary changes, contractual mandatory retirement has remained largely unaltered. It is widely understood by all observers and by the labour market participants (employers, labour unions and government) that this cannot continue and that reforms must be enacted. However, the nature and speed of reform remains under debate, and the key groups – employers, labor and government – fail to agree on a strategy (Economic and Social Development Commission 2011).

The academic literature and experience of other nations point to two possible roads for Korea. The first, are incremental reforms of contractual mandatory retirement policies and of seniority-based compensation schemes dictated by large employers and driven by the specific economic and labor conditions of individual economic sectors. This is, in effect, the current policy direction and what is usually recommended by experts and observers (see Phang 2011; Chang 2011). This is the approach the government is currently taking, which mirrors to some extent the strategy used by Japan (personal interview, Seoul, July 13, 2011).

The second approach is a legislative reform of contractual mandatory retirement that increases contractual mandatory retirement ages with a timetable to eliminate it altogether, along with legislation to limit seniority-based wage compensation. This approach assumes that unions and employers will not reach a satisfactory consensus and that the quick elimination of mandatory retirement will foster productivity growth (by curbing the low value added small services sector) and other labor market reforms, particularly in the context of a rapidly aging population. This approach also assumes that the current arrangements create unnecessary conflict – such as between younger and older workers – and prevent labour market adjustments required for an aging population.

Arguably, the second approach is less desirable (at least initially) for the private sector parties: many employers and some workers. However, the experience of other nations, and the evidence from economic theory, is that such an approach may be less risky than the incremental advances. Given the stagnant economic growth of Japan in the past two decades, it is difficult to argue that its model of incremental reform dictated by large employers is particularly attractive.

And, indeed, some Korean experts have begun to call for immediate increases to the contractual mandatory retirement age (Choi 2009; Suh 2011; Lee 2010b). For several years, the OECD has been recommending the abolition of the mandatory retirement system in Korea (OECD 2008). Most recently, the OECD has stated: “One priority [for public policy] is to require companies to set a mandatory retirement at an age closer to the pension eligibility age – or forbidding the use of mandatory retirement altogether – thereby helping to change the seniority-based system” (OECD 2010: 40). Other experts have proposed how

[1] Although not the focus of this study, it should be noted that retirement patterns are likely a factor in determining fertility rates. Households that face contractual mandatory retirement, especially those at an early age, can be assumed to limit their lifetime expenditures on childrearing, including costs associated with tuition and marriage of children. This is even more probable given the increases in the mean age at first birth of Korea mothers which reached 29 in 2005 and 31 for second births (Kim, 2009a).

adjustments to seniority-based compensation are possible in the context of higher retirement ages (Phang 2011).

An increase in the retirement age, and its ultimately abolition, is unlikely to arise occur naturally with the social partners finding a compromise. Private interests, especially employers, will always prefer contractual mandatory retirement as its benefits are retained by the firm, while its substantial costs are borne by the state and individuals. As such, it is incumbent on legislators and the government to act in the best interests of Korean society.

7. RESEARCH AND POLICY RECOMMENDATIONS

The analysis of this paper leads to nine recommendations on how new policies can be developed in regard to contractual mandatory retirement for Korea's aging labor force.

1. That the definition of "old" and "older worker" used by the Korea National Statistical Office and other agencies be revised to reflect international norms of 65.

2. That research organizations place greater emphasis on the study of age-based discrimination in the labor market and workplace.

3. The research organizations and universities organize national and international symposia and other events on topics related to contractual mandatory retirement.

4. That systematic survey research be undertaken on the preferences of workers in regards to work, retirement and income security, including seniority-based compensation schemes.

5. That workplaces that have instituted age free employment systems be highlighted and studied by research and policy organizations.

6. That a network of experts be formed to provide advice, commentary and analysis on contractual mandatory retirement.

7. That the Korean government commission reports on the experience of other nations which have retained contractual mandatory retirement, that have increased ages for contractual mandatory retirement, and that have eliminated contractual mandatory retirement.

8. That equity seeking groups include contractual mandatory retirement policies on their agenda. In particular, that women's groups consider the impact of contractual mandatory retirement.

9. That older workers, including those who have been involuntarily retired, enhance their organize within unions, workplaces and more widely, so as to better express their views on contractual mandatory retirement and age discrimination, and influence public policy.

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