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The End of Korea's Hojuje System: How Women's Rights Activists Changed Gender Politics and Family Law

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ABSTRACT

For decades in South Korea, the *hojuje* (family headship) system defined South Korean citizenship through a patriarchal lineage, legally subordinating women under male heads of household. Despite South Korea's rapid democratization in the late 20th century, this system persisted as a protected symbol of "traditional" Confucian values. This paper utilizes a feminist institutionalist framework and historical process tracing to analyze the successful abolition of *hojuje*, culminating in the Constitutional Court's 2005 ruling and the subsequent Civil Act revisions effective in 2008. The study examines how women's rights activists strategically reframed family law reform not merely as a gender equality issue, but as a project of post-colonial restoration, arguing that *hojuje* was a vestige of Japanese imperial rule rather than authentic Korean tradition. Furthermore, the research highlights the strategic shift from legislative lobbying to constitutional litigation, demonstrating how judicial review served as a critical mechanism to break conservative political inertia. Ultimately, this case illustrates how transitional democracies leverage the alignment of domestic family law with global human rights standards as a crucial soft power strategy.

Keywords: *Korean politics, family law, gender equality, hojuje system, legislative reform, women's rights, Korean feminism, legal activism*

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INTRODUCTION

In 2008, South Korea finally got rid of the *hojuje* system—a family registration law that, for more than a hundred years, forced every family to be officially registered under a male head of household. (Kim & Kim, 2014) On paper, this may sound like just another legal update, but in practice, its abolition was one of the biggest breakthroughs for women’s rights in modern Korean history. Until that point, single women, divorced mothers, and widows couldn’t even be recognized as the official heads of their own families. Ending *hojuje* meant breaking down barriers that had been built into the very structure of Korean law and society.

What makes this reform especially important is that it didn’t just tackle workplace discrimination or voting rights, like many other gender equality movements around the world. Instead, it went straight for the core of how families—and by extension, society—were officially defined. Since Confucian traditions had long cemented patriarchal authority in both culture and law, reforming family law directly challenged the foundation of those beliefs. The fact that activists managed to push this reform through, despite such strong resistance, makes it a powerful example of how deeply ingrained systems can still be changed.

This paper uses process tracing to unpack how women’s rights activism in Korea actually led to legislative reform. Drawing on feminist institutionalist theory, I look at the combination of factors—persistent advocacy, strategic legal challenges, and the right political conditions—that made the end of *hojuje* possible. To guide this, I focus on three key questions: (1) What made the abolition of the *hojuje* system successful? (2) How did women’s organizations rally enough political and public support for change? and (3) How did Korea’s institutional context both limit and enable reform efforts?

METHODOLOGY

This study uses a qualitative case study approach, combining process tracing with a feminist institutionalist perspective to examine how Korea’s *hojuje* system was abolished. Process tracing is valuable here because it makes it possible to move beyond simple correlations and instead uncover the causal steps that linked women’s rights activism to legislative reform. The research is designed as a single in-depth case, focusing on the abolition of *hojuje* while also bringing in some comparisons to other East Asian family law reforms. This structure allows for exploration of the political process in detail while still recognizing broader regional patterns.

Primary sources include Constitutional Court decisions—especially the 2005 “constitutional incompatibility” ruling (헌법 불일치)—as well as National Assembly debate transcripts from 2003–2005. Documents from women’s organizations, including Korea Women’s Association United (한국여성단체연합) and Citizens’ Movement for *Hojuje* Abolition (호주제폐지를 위한 시민의 모임), provide crucial insight into

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advocacy strategies. Secondary sources include articles from Family Law Research (가족법연구), other Korean academic scholarship, international literature, and media coverage from the time.

The analysis is guided by feminist institutionalism, which helps explain both how patriarchal norms became embedded in legal structures and how reformers were able to exploit contradictions within those structures to push for change. Within this framework, I trace three main explanations: (1) mobilization by the women's movement as the key driver, (2) constitutional rulings that created legal pressure, and (3) democratization as the broader political context that made reform possible.

This study does have limitations. The focus is mainly on elite-level processes—such as court rulings, legislative debates, and organizational leadership—so it does not fully capture grassroots perspectives. Finally, because the central events occurred between 2005 and 2008, the temporal distance means some contemporary perspectives may not be fully represented.

HISTORICAL BACKGROUND AND INSTITUTIONAL STRUCTURE

Origins and Structure of the Hojuje System

The *hojuje* system has deep historical roots, going back to the late Joseon Dynasty and then being formalized under Japanese colonial rule in 1922. As Yang (2013) explains, “the first iteration of the *hoju* system was the *minjeok* system of the late Korean Empire, adopted in 1909. *Hojeok* came into use under Japanese rule in 1922” (p. 45). Modeled after Japanese family registration laws, the system required that every family register under a male household head (*hoju*), who had legal authority over core family decisions, including marriage, residence, and inheritance. Women could only become household heads in exceptional circumstances, such as when no male relatives were available to take the role.

The institutional structure of *hojuje* reflected broader Confucian principles that emphasized patriarchal authority and the preservation of male lineage. Family registers were designed to track genealogical relationships through male lines, which reinforced cultural norms that prioritized sons over daughters and husbands over wives. This legal arrangement had serious consequences for women: without a male household head's approval, they often struggled to access social services, obtain business licenses, or even exercise parental rights.

Yang's (2013) analysis shows how Japanese administrators deliberately adapted Korea's existing family structures to fit colonial administrative needs, while simultaneously reinforcing patriarchal control. Interestingly, Japan itself abolished its own family head system in 1948, after postwar constitutional reforms put gender equality at the forefront. As Miyamoto et al. (2011) point out, when Korea finally reformed its family registration laws in 2008, “similar fears were voiced, so a ‘Family Relations Registry’ was created” to preserve the

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documentation of family structure. The fact that Korea retained *hojuje* until 2008, long after Japan and other democracies had moved on, reflects a conscious choice to uphold patriarchal legal structures well into the modern democratic era.

Post-Liberation Developments and Early Reform Efforts

When Korea was liberated from Japanese colonial rule in 1945, the *hojuje* system, instead of being scrapped, ended up surviving. By 1960 it was written directly into South Korea's Civil Code. But the country was changing fast. Starting in the 1960s, Korea's rapid industrial growth and later democratization brought social realities that didn't line up neatly with those old legal structures. That's when cracks began to show.

The first wave of reform came in the 1970s, mostly targeting specific problem areas like inheritance rights and custody rules. The creation of the Korean Legal Aid Center for Family Law in 1973 was especially important. It gave women a place to get legal help when they ran into discrimination and, just as importantly, it produced records that showed these problems weren't isolated cases — they were systemic. That combination of legal precedent and organizational capacity became the groundwork for bigger campaigns later.

The situation began to improve in 1987. The democratic transition introduced a new constitution that stressed equality, which sat awkwardly beside family law provisions that were openly discriminatory. Activists could now frame their demands not only as social justice but as constitutional necessity, and since democratization also loosened restrictions on civil society, women's groups that had been sidelined under authoritarian rule could suddenly participate more fully in politics. That shift made family law reform a live issue in a way it hadn't been before.

THEORETICAL FRAMEWORK

Feminist Institutional Analysis

This research uses feminist institutionalism as its main theoretical lens. At its core, feminist institutionalism argues that institutions aren't neutral — they actively shape and reproduce gender relations through things like formal rules, everyday practices, and even the symbols they rely on. In other words, the way an institution is set up can quietly decide whose power "counts" and whose doesn't.

The *hojuje* system is a clear example of this. On the surface, it looked like a technical registration process, but the requirement that every family have a male household head locked in the idea that men naturally held authority while women were legally dependent. A feminist institutionalist reading helps show that these rules weren't just about administration; they also reinforced particular gender identities and power dynamics.

This framework is also useful for explaining how change happens. Institutions carry contradictions inside them, and those cracks can be used by reformers. In Korea's case, women's rights advocates pointed to the gap between the democratic principles written into the constitution and the patriarchal assumptions still embedded in family law. By framing their arguments around constitutional legitimacy — not just abstract appeals to fairness — they were able to build stronger cases for reform and eventually dismantle *hojuje*.

Process Tracing Methodology

The research utilizes process tracing methodology to identify causal mechanisms linking advocacy efforts to successful legislative reform. As Oh (2007) demonstrates in her study of women's political participation and family law change, "Korean women's political participation through those long struggling years became a solid foundation for raising the status of women in the society by providing empowering forces for women to change even the laws" (p. 97). Process tracing involves systematic examination of evidence to test competing explanations for policy outcomes, focusing on causal chains rather than correlational relationships.

Three competing hypotheses emerge from existing literature: (1) women's rights activism served as the primary driver of reform, (2) constitutional challenges created irresistible legal pressure for change, and (3) broader social modernization rendered traditional family structures untenable. Process tracing methodology allows for systematic evaluation of evidence supporting each explanation while identifying how multiple factors combined to enable reform.

Data sources include parliamentary debate records, court decisions, women's organization documents, and contemporary media coverage spanning 1960-2010. As Shin (2006) notes in her comprehensive analysis of family law reform politics, the movement represented "a contentious space for gender and the nation" where competing visions of Korean identity and modernity intersected (p. 93). The analysis triangulates across source types to identify consistent patterns while acknowledging limitations in accessing some primary materials due to language barriers and archival restrictions.

THE HOJUJE ABOLITION MOVEMENT: ACTORS AND STRATEGIES

Coalition Building and Organizational Development

The effort to abolish the *hojuje* system moved in stages. In the 1970s, reform was mostly about small-scale legal challenges and individual discrimination cases. These mattered because they drew attention to real problems, but they were scattered, and the impact was limited. Broader reform needed something else:

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stronger organizations and coordinated campaigns. That capacity was not there at first and only started to take shape in the 1980s and 1990s as women's groups gained experience and found ways to work together.

By the early 2000s, constitutional arguments had gained traction. Reformers argued that *hojuje* violated equality guarantees and human dignity, forcing courts to wrestle with these claims rather than deferring to the legislature. This legal mobilization set the stage for the Constitutional Court's decisive intervention.

The Campaign for Using Both Parents' Surnames

In March 1997, reformers launched the "부모성 같이 쓰기 운동" (Campaign for Using Both Parents' Surnames) on International Women's Day (Shin, 2006). About 170 women joined at the start, including professors, activists, and even well-known actresses. The focus was on one clear rule in the *hojuje* system: children had to take their father's surname. By drawing attention to something so familiar and personal, the campaign made the inequalities in family law harder to ignore.

The strength of this campaign was that it turned a legal argument into an everyday problem. Parents who wanted to pass on both family names, divorced mothers who still wanted a visible link to their children, and families with inheritance disputes all found themselves in the same conversation. What once seemed like an abstract debate about tradition now looked like a set of problems that touched real lives.

The media response was important too. Newspapers began covering these stories as issues faced by ordinary families, not as extreme demands from a small group of feminists. That change in framing shifted public opinion. Instead of seeing reform as a threat to tradition, more people started to see it as a matter of fairness and practicality.

Legal Strategies and Constitutional Challenges

Alongside grassroots organizing, reformers also turned to the courts. Advocates knew that legal challenges could push reform forward even when politicians hesitated. Research by Yim (2010) shows how lawyers and legal scholars became part of the feminist cause, giving campaigns constitutional arguments and professional credibility. The 한국가정법률상담소 (Korean Legal Aid Center for Family Law), founded in 1956 by Lee Tai-young, Korea's first female lawyer, played a central role. The center developed test cases that exposed the harm women faced under discriminatory provisions of family law.

Yang's work on Korean family law reform (1998, 2009, 2013) traces how litigation developed from scattered individual cases into systematic constitutional arguments. She shows that advocates deliberately built a set of precedents, one case at a time, to prepare for bigger challenges against *hojuje*. As Yang (2009) notes, "The

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feminist legal movement in Korea succeeded by connecting individual cases of discrimination to broader constitutional principles of equality and human dignity” (p. 63).

The cases themselves were often stark: women losing custody of their children to male relatives after divorce, widows denied inheritance because a male heir had priority, women blocked in routine administrative matters because they lacked a recognized household head. Each example showed how daily life was shaped — and constrained — by these rules, and each one helped build the record for constitutional claims. Using individual cases to push broader constitutional arguments forced courts to confront practical consequences, not just formal categories (Cumings, 1981).

By the 1990s, constitutional arguments gained traction. Reformers argued that *hojuje* violated equality guarantees, religious-freedom protections, and principles of human dignity. Courts, increasingly committed to equality jurisprudence, had to wrestle with these claims rather than defer automatically to the legislature. This mattered because it shifted the arena of debate: even lawmakers cautious about upsetting conservative voters now faced judicial rulings questioning discriminatory provisions.

The legal strategy worked best in combination with political advocacy. Grassroots campaigns built public awareness, while constitutional challenges created institutional pressure that politicians could not easily ignore. This dual approach — social mobilization on one side and legal action on the other — was essential in breaking through resistance and keeping reform on the agenda.⁶ Legislative Process and Political Dynamics

PARLIAMENTARY DEBATES AND POLITICAL OPPOSITION

The debates in the National Assembly between 2003 and 2005 showed just how divided legislators were over *hojuje*. Conservative members argued that getting rid of the family head system would weaken social order and damage traditions they thought were essential to Korean society (National Assembly Records, 2003–2005). They also claimed that “Western-style” gender equality did not fit Korea’s cultural setting and warned that reform would cause more divorce and family instability.

Progressive legislators pushed back. Reiterating the historical analysis from Section 3, they argued that the system was not a timeless Korean tradition but a colonial imposition. This argument allowed supporters of reform to present abolition not as copying foreign ideas but as undoing a colonial legacy and restoring earlier Korean practices (National Assembly Records, 2003–2005)

The transcripts also show how age and region shaped the discussion. Younger lawmakers, especially women representatives, spoke in favor of reform and often referred to personal experiences with discrimination.

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Legislators from urban areas were more likely to back change than those from rural districts, which reflected different attitudes among their voters (National Assembly Records, 2003–2005).

These debates did not settle the issue, but they framed the terms of the conflict. By the time the Constitutional Court made its 2005 ruling, the arguments heard in parliament — about democracy, equality, tradition, and colonial legacies — had already shaped the ground on which the judicial decision would be received.

The Constitutional Court's Role

The Constitutional Court was central in pushing family law reform forward. Over several years, it issued rulings that questioned whether provisions of the *hojuje* system could stand under Korea's constitution. Yang's (2013) analysis highlights this process, noting that "In February 2005, after almost five years of scrutiny, the Korean Constitutional Court found that the central articles in the 'Family-head and Family' section of the Civil Act of Korea were incongruent with the Korean Constitution" (p. 45).

On February 3, 2005, the Court handed down its *constitutional incompatibility* decision (Constitutional Court of Korea, 2005). The ruling struck at Civil Code Articles 778, 781-1, and 826-3, finding they violated Article 36-1 (equality in marriage) and Article 10 (human dignity). This judicial pressure broke through political inertia and forced reform onto the legislative agenda.

The 2005 decision became a turning point. By declaring parts of *hojuje* unconstitutional — especially the rules that blocked women from becoming household heads — the Court gave the National Assembly a deadline to act (Constitutional Court of Korea, 2005). Lawmakers had to revise family law or face automatic invalidation of discriminatory provisions. This judicial pressure broke through political inertia and forced reform onto the legislative agenda.

The Court's approach demonstrated how legal institutions can drive policy change even when political institutions hesitate. By articulating constitutional principles that required reform, rather than simply permitting it, the Court shifted the debate. After February 2005, the question was no longer whether to abolish *hojuje*, but how to rewrite family law so that it complied with constitutional standards (Yang, 2013; Constitutional Court of Korea, 2005).

Progressive Government and Policy Windows

The election of progressive President Roh Moo-hyun (노무현) in 2003 shifted the political environment. His administration made gender equality a visible priority and brought civil society figures into government. One of the most important was Kang Geum-sil (강금실), a lawyer and reform advocate, who

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became Justice Minister. She created the Family Law Reform Special Committee, which gave activists direct access to policymaking (National Assembly Records, 2003–2005).

How the Roh government talked about reform also mattered. Officials tied family law change to democratic development and Korea's role in the international community. In debates they argued that removing discriminatory laws was part of becoming a "mature democracy" and part of presenting Korea as a modern state abroad (National Assembly Records, 2003–2005). Framing reform this way made it easier to win over some conservative support, since the argument was about national progress rather than feminist ideology.

Timing played a role as well. By 2005, the Constitutional Court had already issued rulings that created legal pressure, women's organizations had built strong advocacy networks, and the administration was willing to act. These streams overlapped in a way they had not before. Reformers had prepared for decades, but it was this moment — with judicial, political, and civic forces all pressing together — that allowed the National Assembly to finally pass abolition between 2005 and 2008 (Yang, 2013; Constitutional Court of Korea, 2005).

IMPLEMENTATION AND CONSEQUENCES

The New Family Register System

The 2008 reforms formally abolished the *hojuje* system and replaced it with a new system based on individual registration rather than household headship. As Lee (2014) explains, "The family in Korean society is associated with the family headship system (*hojuje*)—which has simultaneously functioned both as a system of legal identification and as the mechanism directly responsible for the production of gendered *kungmin* or national subjects" (p. 269). The new framework created separate but linked registry entries for family members. This eliminated the requirement of a male household head but still preserved official records of family relationships.

The changes resolved some of the most pressing issues that women's groups had been raising for decades. Women now had equal rights to act as family representatives in legal and administrative matters. Children could, in some circumstances, take either parent's surname, which gave families more flexibility than the rigid patrilineal rules of the past. Inheritance rules were adjusted to be more balanced, reducing gender bias in the transfer of property.

Social and Cultural Impacts

The abolition of *hojuje* had effects that went beyond the legal system. One concern raised during debates was that divorce would surge once patriarchal protections were removed. That prediction did not come

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true. Divorce rates stayed relatively stable, which undercut the conservative argument that reform would destabilize Korean society. (Park & Raymo, 2013) What did change was recognition of different family forms. Single-parent households, blended families, and other non-traditional arrangements found more space under the new registration system.

Women's organizations emphasized the symbolic weight of the reform. (Yang, 2013) It did not erase Confucian norms overnight, but it challenged the assumption that authority within the family had to be male by law. That mattered because institutions now validated more egalitarian arrangements, even if culture lagged behind. For younger Koreans especially, the reformed system seemed to confirm changes they were already living, giving families greater flexibility in how they were organized.

The impact was also international. The reform allowed Korea to present itself as more consistent: democratic principles at home matched the image it projected abroad. This credibility strengthened its position in human rights forums and made it easier to claim leadership roles in international organizations. In a period when Korea was expanding its global influence, aligning domestic law with democratic values was part of its broader soft power strategy. (Moon, 2005).

Ongoing Challenges and Limitations

The abolition of *hojuje* marked a turning point, but it did not complete the project of gender equality in family law. Cultural attitudes around family change slowly, and many households still organize themselves according to older patterns regardless of the legal framework. Contemporary reporting observes that “despite stark gender inequality in South Korea, hostility to feminism is growing,” and debates about the value of gender equality institutions remain ongoing (NBC News, 2022).

Economic inequality continues to shape family life in ways that law alone cannot fix. Women's lower wages and frequent career interruptions mean that financial dependence on male partners remains common. This limits the real-world effects of formal legal equality. Closing these gaps would require broader reforms in employment and social policy, not just adjustments to family law.

Politics have also become a site of backlash. Some conservative leaders have pushed to restrict gender equality initiatives, including proposals during the 2022 presidential election to abolish the 여성가족부 (Ministry of Gender Equality and Family). Media accounts stress that “One of the major feats of the ministry is the 2008 abolition of the traditional patriarchal family registration system, which had required all family members to register under a male family head” (Korea Herald, 2024). The fact that this achievement is still contested shows that the politics of family law reform remain unsettled (NBC News, 2022; Korea Herald, 2024).

Since 2020, progress has been mixed. Korea has had a female president, Park Geun-hye (박근혜), but her election did not end debates over gender relations. Amendments to the Family Relations Registration Act in 2024 addressed remaining constitutional problems, yet disputes over paternal surname priority (부성우선주의) continue. Proposed legislation allowing parents to jointly decide a child's surname has faced resistance, showing that the struggle over family law is far from over.

COMPARATIVE ANALYSIS AND IMPLICATIONS

East Asian Family Law Reform Patterns

Korea's reforms are easier to understand when set against what happened in Japan and Taiwan. All three countries inherited family law systems that put men at the center of the household. Each also had to balance old traditions with new democratic ideals. But the paths they took were not the same.

Japan abolished its family head system back in 1948. (Mackie, 2003) That was during the American occupation, when sweeping constitutional changes were being imposed. Taiwan's reforms stretched out over decades. They came bit by bit in the 1990s and 2000s, alongside the island's own democratic transition. (Chen, 2010) Korea acted later, waiting until 2008, but when reform finally came it was broader and more decisive than in Taiwan. Timing mattered. The political situation mattered too. Looking across these cases, a pattern does stand out. Where there is organized advocacy, political leaders who are open to change, and pressure from courts or constitutions, reform can move. If any one of those is missing, change slows or stalls. Cultural attitudes make a difference as well, but they shift more slowly. That helps explain why the details differ, even though the basic problem — patriarchal family law — was shared.

Implications for Gender Politics Research

The abolition of *hojuje* shows why long-term institutional analysis matters for understanding gender politics. Reform was the product of not one legislative fight but decades of effort. Activists built coalitions, adapted their strategies, and waited for political openings. A short-term lens focused only on the final votes in 2005–2008 would miss the groundwork that made reform possible in the first place.

The case also makes clear that no single factor explains success. Women's rights organizations, constitutional court rulings, political leadership, and broader processes of modernization all mattered. But none on its own could have overcome resistance. Chang (2010) argues that South Korea's compressed modernity created tensions between traditional structures and democratic ideals, and the *hojuje* debate illustrates that clash. The more society modernized, the less a patriarchal household system seemed to fit.

Moon's (2002) study of civil society also helps explain the outcome. Moon shows how women's organizations learned to apply pressure across different arenas — grassroots campaigns, legal challenges, and electoral politics. The lesson here is that reform comes from multiple directions at once. This has implications beyond Korea: movements trying to change entrenched institutions in other democracies may need to combine strategies, rather than relying on one path alone.

Contemporary Relevance and Future Research Directions

The *hojuje* abolition experience provides insights for understanding contemporary debates about gender equality in Korean politics. Recent controversies about feminist policies, military service requirements, and workplace discrimination reflect continuing tensions between traditional gender norms and equality principles that family law reform addressed but did not resolve. The political coalition that achieved *hojuje* abolition has fragmented in recent years, with women's organizations facing reduced government support and increasing public skepticism about feminist initiatives. Understanding how this coalition dissolved could inform efforts to rebuild political support for continued gender equality progress.

The case also demonstrates that legal and institutional reforms, while necessary, are insufficient for achieving full gender equality. Changing deeply embedded social norms requires sustained cultural work beyond formal policy change.

CONCLUSION

The end of *hojuje* was a landmark moment in Korea's fight for gender equality and democratic reform. This study used process tracing to show how the outcome depended on years of organizing, legal battles, and eventually the right political timing. What looked in 2008 like a sudden breakthrough was in fact the product of decades of steady work. Women's rights advocates in Korea combined grassroots mobilization (시민운동), constitutional challenges, and political lobbying to keep pressure on multiple fronts at once. That combination helped them overcome resistance that no single tactic could have broken down. The *hojuje* case shows that even very old, patriarchal systems can change when activists connect their demands to principles of democracy and constitutional legitimacy.

This study points to several areas where more research would be useful. One is long-term, or longitudinal, studies that track how family law reforms actually shape family practices over time. Laws can change quickly, but culture often shifts more slowly, so it would be valuable to see how the gap between formal reform and lived reality plays out. Another direction is comparative work. Looking at reforms in Japan, Taiwan,

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and Korea together could help identify regional patterns in how post-authoritarian democracies handle gender and family.

For scholars of Korean politics and democratization, the *hojuje* case illustrates how transitional democracies expand equality. Reform did not happen all at once; it came from years of advocacy, litigation, and political negotiation. The Korean example suggests that democratic consolidation is not only about elections but also removing discriminatory laws left over from authoritarian or colonial periods.

This study also adds to a broader understanding of how social movements can achieve institutional change. The combination of constitutional litigation, legislative advocacy, and grassroots mobilization used by Korean women's groups offers one possible model for movements elsewhere that are trying to dismantle entrenched forms of discrimination.

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