

Problems in retaining the legacy of the traditional idea of family-based welfare support in South Korea's social welfare provisions under the National Basic Livelihood Security (NBLs) System

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Introduction

South Korea was hit by the Asian Financial Crisis in 1997 and faced unprecedented economic and social problems. In the middle of the crisis and the economic restructuring demanded by the International Monetary Fund (IMF) and the World Bank (WB), the South Korean government actually expanded its social protection system in significant ways. This has been referred to as the 'paradox' of the South Korean case (Shin D.M., 2000; Ian and Kwon, 2007). There has also been an accompanying public attitude change that emphasizes the state's responsibility in providing for the welfare of citizens (Shin and Rose 1997; 1998). Since the election of Kim Dae Jung, a long-term opposition party leader, as president in December 1997, the human rights discourse became widespread in South Korean society, shifting the emphasis from individual responsibility for welfare support to state responsibility. In 1999, the first legally guarantee of the right to social security of all citizens, the National Basic Livelihood Security Act, was established and the NBLs system was implemented from October 2000. The development of the welfare state based on the concept of social rights was said to be a 'paradigm shift' in Korean welfare history (Ministry of Health and Welfare (MOHW)), marking a departure from South Korea's previous self of being a developmental state toward being a democratic productive welfare state (Lee, H.K., 2005).

This paper firstly examines the development of the welfare state in South Korea before the Asian Financial Crisis, focusing on how the South Korean welfare model that puts individual and family responsibility prior to state responsibility in providing welfare support had been developed over some 50 years. It shows how South Korean governments have used the social welfare agendas mainly to gain political legitimacy and mobilize resources for economic development. It also focuses on how the state selectively used certain Confucian values in order to drive economic development and justify a lack of financial commitment from the government in providing welfare support. The paper goes on to examine social and political conditions after the Asian Financial Crisis and the election of Kim Dae Jung as president in 1997 as a background to the 'paradigm shift' in the development of the South Korean welfare state.

While the establishment of a welfare system based on social rights is regarded as a 'paradigm shift' and a 'departure from its previous self', it is doubtful that South Korea has now a rights-based welfare system. The remaining part of the paper will focus on this doubt by examining the NBLs Act and its implementation process by which the law is interpreted based on deeply rooted assumptions and beliefs.

By examining the NBLA Act, the paper firstly shows how the current welfare system has incorporated, as firmly as 'its previous self', family obligation prior to that of the state as the main rules of the system. Based on a case study, the paper also shows the limits of the NBLA system in providing welfare support to the most vulnerable groups among the poor and the system's failure to accommodate changing attitudes toward family responsibility in a rapidly aging society with changing family structures and relations.

Development of a welfare state in South Korea before the Asian Financial Crisis

After the Korean War (1950-1953), and in the context of the Cold War, Korea was divided into the Democratic People's Republic of Korea and the Republic of Korea (South Korea). The First Republic (1948-60), under the leadership of Rhee Syungman, was established with the support of the US government, and embarked on a state building program. While the new government lacked resources necessary for protecting basic livelihoods of the people, it was the US government and foreign, mainly US, based aid agencies that bore the financial and administrative burden of welfare provision in South Korea following the war (Reiger and Leibfried, 2003; Kim 2008). However, it is also important to note that during this state building process, the main concern of the South Korean government was on gaining political legitimacy rather than addressing economic or social issues including welfare provision (Kim, 2008). It is therefore not surprising that the first social protection scheme was designed to serve powerful social groups rather than the poor. Under the Military Assistance Act of 1950 and the Police Assistance Act of 1951, war veterans, police officers and their dependents became the first beneficiaries of public assistance, while civil servants became the first group entitled to pensions through the introduction of the Civil Servant Pension Scheme of January 1960.

The Second Republic, established in July 1960 following Rhee Syunman's step down due to illegal interference in the election process, introduced radical reforms including large-scale public welfare programs (Kim, 2008). However, the Second Republic and its reform plans were crushed by a military coup in 1961 led by General Park Chung Hee. Under the dictatorship of Park Chung Hee (1961-79), South Korea achieved rapid industrialization and economic growth. Although during this period various social protection schemes were introduced, the government's priority was on economic development while other social issues, such as income redistribution and social welfare, were sacrificed to this priority (Deyo, 1992; White and Goodman, 1998; Kim, 2008). Furthermore, the introduction of a social protection system during this period was, again, primarily to legitimate the illegitimate military regime rather than to meet the need or demand of people. (Park and Heo, 1999; Kwon, 1999; Kim, 2008; Holiday, 2005)

After the assassination of Park Chung Hee in October 1979, Chun Doo Hwan, with the help of Roh Tae Woo and other military personnel, staged a coup d'état and appointed himself as the president in 1980,

establishing the Fifth Republic. Faced with an inherent lack of legitimacy and public resistance, Chun Doo Hwan's regime considered social welfare policy as an effective instrument to reinforce the legitimacy and ease social discontent (Kim, 2008). Under its political slogan of 'the construction of a welfare society', the Chun Doo Hwan regime introduced the first welfare provision for the elderly and the disabled by enacting the Welfare Act for the Elderly and the Welfare Act for the Disabled in 1981. The coverage of the National Health Insurance, brought in under the Fourth Republic, was also extended by initiating regional health insurance schemes and including workers at firms with more than 100 employees in 1981 and those at firms with more than 16 employees in 1982.

The election of Roh Tae Woo and the establishment of the Sixth Republic (1988-1992) marked the first democratic transition of power with the following election bringing in South Korea's first civilian president, Kim Young Sam (1993-1997). This period is often called the democratization period of South Korea, before the Asian Financial Crisis at the end of 1997. South Korea, with the end of cold war era globally, saw an upsurge of civil society movements, including social welfare movements, whose assertive claims made the government more responsive to the demands for welfare reform. Right after the June Uprising of 1987, the Roh Tae Woo government dispatched 49 social welfare officials, for the first time within South Korea's welfare delivery service, to avoid the trenchant demands for welfare service reform (Kim, 2008). The National Pension Scheme was implemented in 1988 and the coverage of the National Health Insurance was extended to workers in firms with more than 5 employees and those living in rural areas in 1988 and those living in urban areas in 1989, with the result that finally the universal coverage of the National Health Insurance was achieved. During the 1990s, social welfare movements prioritized political advocacy activities aimed at achieving welfare reforms, pressing the government to undertake institutional reforms to accommodate their demands (Kim, 2008).

Confucian Culture and Public Assistance before the Asian Financial Crisis

Confucian tradition has long been influencing South Korean society socially and culturally. Some scholars argue that South Korea is one of the most closely bound to Confucian ethical heritage among the Asian developing or developed countries such as Japan, Singapore, Hong Kong, Thailand (Palley, 1992) or the most Confucian in the world, even more Confucian than China (Kahn, 1979; Koh 1996). Focusing on this cultural aspect, some find the reasons for successive economic development in East Asian countries rooted in Confucian ethics such as hard work, thrift and self-help (Kim and Park, 2003; Landes, 2000; Tu, 1996). The influence of Confucian values in economic development of South Korea certainly seems relevant. However, the relevance comes from the state's manipulation of certain Confucian ethical notions that serve economic development rather than Confucianism itself and it is this that, arguably, enabled South Korea's successful economic development (Kwon, 2007). In relation to social welfare, it is

also the state that emphasizes the role of the individual in providing welfare support to family members, articulating self-help and the traditional Confucian ethic that holds the son, mainly the eldest, responsible for the care of his elderly parents, with the married daughters responsible for their parents-in-law (Palley, 1992; Sung 2003).

The biggest social campaign to promote 'positive' Confucian forces for development, such as hard work, merit and discipline, as against 'stultifying' Confucian forces, such as the low prestige attached to economic activity, money, affluence or any physical conveniences (Palley, 1992; Kwon, 2007) was staged under the dictatorship of Park Chung Hee (1961-79). As a way of orchestrating mass mobilization of voluntary resources in local communities¹, the Park Chung Hee regime initiated the New Community Movement (NCM). The NCM began as an economic mobilization initially but it was also characterized by the government as a 'spiritual revolution' to create 'new men' who were independent, creative, pioneering, cooperative and practical (Kwon, 2007). 'Assiduity', 'self-help' and 'cooperation' were declared as the three principles of the NCM. Throughout the nationwide social campaign, Park Chung Hee promoted the idea that 'people should manage economic independence without relying on government' (President Secretariat of Republic of Korea, 1976, cited in Kim, 2008).

With the NCM and the comprehensive social campaign, the Park Chung Hee regime denied universal social welfare for the population and enforced the overarching principle of South Korean welfare system termed as "growth first, distribution later," "economic growth as the best welfare policy, and the family as the best safety net" (Lee, H.K., 2005) 'family-first welfare responsibility' (Kim, 2008), 'family care first, social security second' (Choi, 1992, cited in Palley 1992).

This overarching principle of South Korean welfare provision had been dominant throughout later governments. For example, the Chun Doo Hwan government (1980-1987) emphasized the superiority of informal, familial, community-based mutual support groups and their cooperation with the state, particularly in the field of social welfare services (Lee, H.K. 1999:29). Furthermore, the social welfare programs were subjected to the necessity of fiscal restraints (Shin, D.M., 2000). The Kim Young Sam government (1993-1997), which came up with so-called the 'Korean Welfare Model', also stressed the welfare role of the family, the partnership between public and private sectors, the development of human capital and the avoidance of dependency on the State (MOHSA, 1994 cited in Shin, D.M., 2000).

It is not surprising therefore that the Livelihood Protection system introduced in 1961 under Park Chung

¹ 'In fact, 28 billion won worth of labour and financial resources in 1972 – around 89.5 percent of total spending in community-development projects – was mobilized by local communities by themselves' (Ministry of Home Affairs: 1980, cited in Kim 2008:831).

Hee had strict means-testing criteria and the actual benefits were minimal. People aged between 18 and 65, unless disabled or pregnant, were not eligible as they were automatically regarded as being able to work regardless of their actual inability to work, and were therefore expected to work and be self-reliant. Poor people under 18 or 65 and over were entitled to cash or “in-kind” support as officially defined, depending on their circumstance. The level of cash benefits was estimated at half of the official poverty line (Kwon, H.J., 2003) and the official poverty line, based on the notion of absolute poverty, was largely administratively decided by the budget allocated (Lee, H.K., 2004; 2005). This meant that people on benefits received whatever allocated by the government regardless their actual needs. The amount people received was so little that, for example, ‘many could not maintain governmentally provided rental apartments because they could not afford the monthly utility charges (Korea Times, July 29, 1990, p.3 cited in Palley, 1992).

Another means-test criterion under the Livelihood Protection system concerned the family members, which clearly shows what the government meant by ‘family-first welfare responsibility’. Poor people aged under 18 or 65 and over should be either without any responsible family member or with a responsible family member who is unable to work. The scope of what constituted responsible family members was so broad that a 66 year old lady, for example, was not eligible if she had any one of the following member: husband; children; children’s spouse; grandchildren; grandchildren’s spouse; brothers and sisters living together. With this kind of institutional design, the government legitimately put the welfare responsibility on the family.

In terms of welfare delivery, up until 1988 when Roh Tae Woo dispatched 49 social welfare officials to local governments, there had been no staff carrying out means testing or specifically working for the public assistance. Furthermore, the local officials who were responsible for the selection of beneficiaries often used their local knowledge and the records from previous years to identify those in need (Kwon, H.J. 1998a). As a result, only 377,986 people, 0.8 percent of the population, were receiving livelihood benefits under the Livelihood Protection system in 1997 (MOHW, 1997).

Social and Political Changes after the Asian Financial Crisis in 1997

South Korea was hit by the Asian Financial Crisis at the end of 1997 and faced various economic and social problems including increases in the level of unemployment and poverty, ‘the collapse of the middle class’, increases in the rate of divorce, suicides and homelessness. With regard to unemployment, South Korea had maintained a relatively low unemployment rate with high economic growth up until 1997. However, with the outbreak of the financial crisis and the following economic collapse, the unemployment rate increased from 2.6 percent in 1997 to 7.0 percent in 1998 (Korea National Statistical

Office (KNSO)).

Newly created words and phrases such as 'IMF suicide', 'IMF crime', 'collapse of the middle class' graphically illustrate the social problems that occurred after the economic crisis. According to the South Korean Supreme Court, the number of people across the nation who ended their marriages between January and September 1998 reached 94,898, a 34.5 percent increase over the previous year's figure of 70,575 during the same period. It was widely interpreted that most of the marital discord that led to divorce was related to the economic difficulties. (Choi and Chung, 2002). Where there were hardly any homeless people on the street before 1997, homeless people, for example in Seoul, increased to some 5,000 in 1998 (Joo 2001 cited in Shin, Y.J., 2003:123)

The long held social policy principle of 'economic growth as the best welfare policy, and the family as the best safety net' was not feasible any longer. Faced with the economic collapse and in the near absence of any government commitment to welfare provision, the family could no longer function as the best safety net as it had been expected to do. Poverty had increased sharply after the crisis from 3.9 in 1997 to 8.2 in 1998 and to 9.4 in 1999 (Ministry of Government Administration and Home Affairs (MGAHA) et al., 2005)

The economic crisis and the hardship it placed on individuals and their family aroused in people an attention to the role of the social security system in South Korea and brought about growing social demands for social welfare provision (Shin, D.M., 2000; Kwon, S., 2001). Public attitudes to poverty and the roles of the family and of the state in providing welfare changed. A timely survey on Korean attitudes to the State's responsibility for individual welfare shows that some 83% of respondents answered that the State should be responsible for individual welfare after the crisis while only 49% gave this answer before the crisis (Shin and Rose 1997; 1998) This dramatic change in attitudes with regard to the state's responsibility suggests that social demands for social rights have been largely acknowledged among the public since the economic crisis (Shin, D.M., 2000)

In relation to the public demands for social rights, it is important to note the significance of the election of Kim Dae Jung as the president and the wide spreading human rights discourse that followed. Kim DJ was the long-time opposition leader who had fought against the authoritarian military regimes. He had been on the left within the mainstream of Korean politics, being both exiled and under house arrest during the 1970s and 1980s. His election in December 1997 was the first legitimate transfer of political power in fifty years. Under the previous military regimes, discussion of social rights and demands for social welfare were regarded as ideologically charged and was prohibited (Peng and Wang, 2008). With the end of the cold war globally and democratization in South Korea in the late 1980s and 1990s, the discourse on

social rights and of social welfare based on rights was used mainly among social welfare movement organizations such as the People's Solidarity for Participatory Democracy. During the mid 1990s however the demands from social welfare movements, such as for a guarantee of a minimum livelihood protection based on social rights, was merely regarded as idealism (Kwon, H.J.,1993). However, under the presidency of Kim Dae Jung, who was dubbed as the 'human rights president' and won the Noble Peace Prize in 2000, the notion of social welfare based on social rights became a legitimate mainstream policy in Korea. The political environment created by the election of Kim Dae Jung was a window of opportunity for human rights NGOs in South Korea.

While human rights language gained currency under Kim Dae Jung's government, traditional Confucian values that were mainly institutionalized under the Family Law were losing ground. The biggest reflection of the weakening Confucian values was marked with the Parliament's approval of a Bill in 2005 to abolish 'Hojuje', a family head system under which any male, regardless of age, takes precedence over any female as the head of a household. With the democratization and increase in social movements, particularly women's rights movements, the rights and obligations of the eldest son within the family had been restricted with the amendment of the Family Law in 1989. However, the 'Hojuje' remained intact in the 1989 reform and the women's rights movement to abolish the 'Hojuje' faced hostile reactions from self-proclaimed Confucians (Cho, 2004). The abolition of the 'Hojuje', the symbol of the institutionalized Confucianism was possible due to the general social changes after the Financial Crisis, widespread human rights discourse and ever strengthened women's rights movements within the political environment created by the Kim Dae Jung Government and his successor Roh Moo Hyun, a president with a human rights lawyer background.

Kim Dae Jung Government (1998-2002) and Social Policy Reform

The Kim Dae Jung government set off in 1998 facing a myriad of economic and social problems after the Asian Financial Crisis in 1997. The new government needed to restructure the economy upon the demands of the International Monetary Fund and World Bank and reinvigorate economic growth while consolidating social support to overcome the crisis. The economic crisis also brought about public attitude changes toward the role of government, demanding an increased role of the state in social protection. Under these circumstances, a significant extension of the social protection system took place, which has been called the 'paradox' of the South Korean case (Shin, D.M., 2000; Holiday and Kwon, 2007). The Kim Tae Jung government firstly mainstreamed the social policy, declaring its commitment to 'Productive welfare' as the third pillar of the government, in addition to the other pillars of Democracy and Market Economy (Lee, H.K., 2005). A comprehensive social policy reform was followed.²

² For the first government from the opposition in fifty years, the social policy reform was also a political

The social policy reform by the Kim Dae Jung government was often viewed as not being limited to the creation of a social protection system but rather concerned with building a more redistributive and comprehensive welfare system based on social solidarity principle and the notion of social rights. (Shin, D.M. 2000). Among other social policy reforms, the introduction of the NBLS system is often referred to as the representative of the social policy reform of the Kim Tae Jung government. The National Basic Livelihood Security Act was established in 1999 following successful lobbying by social welfare ‘advocacy groups’ within the political environment created by the Kim Dae Jung government (Kwon, H.J., 2003; Lee, H.K., 2004). The NBLS Act, for the first time in South Korea, recognizes the social right of every citizen to a decent living and the state’s responsibilities for fulfilling that right. The government claims that ‘a major paradigm shift has been undertaken to strengthen the Government’s responsibility’ (MOHW website). It was also viewed as ‘a radical replacement of the existing pre-crisis social assistance scheme’ in South Korea (Lee, H.K., 2005) and interpreted as to mean that ‘social protection has become an integral social policy goal in Korea’ (Kwon, H.J., 2003; Lee, H.K., 2004) further argues that ‘all now agree that Korea today has departed from its earlier self’ of the pre-crisis ‘developmental state’ toward post-crisis ‘democratic-welfare-capitalist’ state. It appears ‘what we have now in Korea’, as Ramesh (2003:88) argues, ‘is an embryonic welfare state’. However, prior to any further discussion on the NBLS system and its significance or implication, it is necessary to examine the content of the NBLS and its differences from the earlier public assistance scheme.

The NBLS in close up:

The biggest change that distinguishes the NBLS Act from the Livelihood Act is, of course, the fact that it recognizes both social rights and state responsibility. The law incorporated the rights language, guaranteeing ‘Sugeupkwon’ – the right to receive benefits (NBLS Act Article 2(1)), and calling a benefit recipient as ‘Sugeupkwonja’ - a person receiving benefit under the right guaranteed (NBLS Act Article 2 (2)). The State and local governments were specified as the institutions to guarantee the right (NBLS Act Article 2(4)). People entitled to the right include those who are poor and whose income fell below the poverty line. Under the Livelihood Protection System, people aged between 18 and 65 were regarded as having working ability and automatically excluded from the protection system. With the abolishment of this presumption, people with working ability became able to claim benefit if their income fell below the poverty line. The poverty line has also been changed from that based on absolute poverty to the one based on relative poverty. The MOHW estimates and announces the minimum living standard of a household each year (NBLS Act Article 4). The law also specifies that welfare officials who had specialized in

card to gain support in the parliamentary election in 2000.

social welfare are in charge of the means testing (NBLs Act Article 22). The government recruited 600 new welfare officials in 2000 with the implementation of the NBLs and 700 in 2001 and 1,700 in 2002³. 'In a nutshell', according to Kwon H.J. (2003), the NBLs recognized the social rights of citizens to a minimum living standard.

However, a closer examination of the NBLs Act tells a different story. In spite of the explicit guarantee of the right to social security and state responsibility, the legacies of the long held social welfare principles in South Korea that emphasized hard working, self-reliant individuals and Confucian values of family care remain intact under the NBLs system. Concerning the basic principle of the benefits, Article 3(1) states that 'based on the pre-condition that the right holder do the best to maintain and improve the living condition using income, asset and working ability, the primary principle of benefit payment is to supplement and develop this'. Under this principle, people who are defined as with working ability are required to participate in self-reliance support programs such as those run by the Self-Reliance Support Centre as a condition for receiving benefit. The second principle that this paper focuses on is that 'protections under other laws and support from the 'family member who are obliged to support' precedes the benefits under the NBLs and that only if the level of other protection does not meet the level defined under the NBLs, would the right holder would not lose the right to receive benefit of the amount of the rest' (Article 3(2)).

This principle of putting family responsibility prior to the state responsibility in welfare support had been well established during the rapid economic development process and used to justify the lack of the state's financial commitment with regard to welfare provision. The NBLs Act of 1999 has not brought significant changes in this regard. The scope of the 'family member who is obliged to support' is the same as that defined in the Livelihood Protection Act of 1961. Under the NBLs Act of 1999, the 'family member who is obliged to support' of say a 66 year old lady would still include her husband, her children and children's spouse, her grandchildren and grandchildren's spouse and brothers and sisters living together. In defining the ability to support of the 'family member who is obliged to support', the means tests' regarding income criteria were very strict. For example, a family member whose 'actual income' was over 120 percent of the minimum living standard was defined as being able to support⁴. While the minimum living standard was criticized as being too low to guarantee the minimum living standard, a person who works became easily defined as being able to support and, therefore, obliged to support. The

³ However, it should be noted that the number of welfare officials is unrealistically small compared to their overall workloads (MOGAHA et al 2005). Since 2002 there had been no further recruitments up until 2006 under the Roh Moo Hyun government (2003-2007) when there was a welfare delivery system reform to deal with various shortcomings in welfare delivery system and to address public outcry following several incidents of child deaths from hunger and poverty.

⁴ This is only one example of the complicated means tests applied to the ability to support. For detailed rules, see the NBLs Implementation Principles (MOHW Act No. 49) and the NBLs Implementation Guideline (Presidential Act No. 21095)

strict means testing criteria on the 'family member who is obliged to support' has been continuously criticized since the law was established (Yeo, 2004; Park et al., 2003; Lee, Y.W., 2003; Kim, K.H., 1998).

It is important to note that since the implementation of the NBLs Act in October 2000 guaranteeing the social right to welfare for all citizens, the number of beneficiaries receiving livelihood protection has increased from 0.37 million in 1996 to 1.4 million in 2001. Although the increase is significant, the actual percentage of people protected under the NBLs is not that significant. 2.99 percent of the population was protected under the NBLs in 2001 and the percentage had not been much increased by 2006. Furthermore, considering the increase of poverty ratio in both absolute and relative term, the protection provided by the NBLs reveals a huge gap between the ratio of people in need and actual protection provided (MOHW Annual Statistics on Public Assistance and Population, Lee, HJ et al., 2006).

The biggest reason for the low take-up-rates under the NBLs, in spite of its explicit guarantee of the social right to welfare assistance, was considered to lie in the strict means testing on the 'family member who is obliged to support' and the broad scope of the 'family member who is obliged to support'. (Yeo, 2004) argues that due to strict rules on family obligations, over one million people, equivalent to 2.1 percent of the population, are excluded from the NBLs. Pointing out the decreasing level of informal support and "unrealistic" demands on family members to support an extended family, such as obliging a grandson to support his grandparents, scholars have argued for the relaxation of the means testing rules on the 'family members who is obliged to support' (Yeo, 2004; Park et al., 2003; Lee, Y.W., 2003; Kim, K.H., 1998).

With the NBLs Act amendments in March 2004 and December 2006, the scope of the 'family member who is obliged to support' has been reduced to the boundary of the nuclear family. In our example case of a 66 year old lady given earlier, under these new amendments only her husband, her children and children's spouse are obliged to support her. The income criteria on the 'family member who is obliged to support' has been also relaxed since July 2006 so that a family member whose income is less than 130 percent of the minimum standard of living is to be exempted from the obligation to support. Despite these relaxations, the increase in take up rates in 2007 does not seem very significant with 1,549,848 people, equivalent to 3.19 percent of the population receiving support in comparison to 1,534,950 people, 3.18 percent of the population in 2006. This is not to say that the relaxation of the rules on family obligations is insignificant, but it is to point out that current means testing criteria with regard to family obligations are still too strict. Thus the NBLs system leaves many people living in absolute poverty without any protection in the time of increasing poverty in both absolute and relative terms as shown in the table above. Clearly, determining conclusively the reasons for the low take up rates, despite the relaxed rules on the family obligation, requires further examination. However, the case study below will offer an

explanation for part of the reason by illustrating how a claimant can find themselves left out without support and how the notion of family obligation is interpreted and implemented at the street level.

Family Obligations in Action

The following case looking at NBLs benefit claiming is drawn from a sociological fieldwork undertaken in 2006 in Seoul, South Korea. With the People's Solidarity for Anti-Poverty, a South Korean NGO working on poverty and social justice, I assisted street vendors in Kyundong-Market in Seoul claiming the NBLs benefits. This research involved accompanying claimants to Dong Offices⁵, closely observing interactions between claimants and welfare officials responsible for handling the claims and carrying out in-depth interviewing, both with claimants and welfare officials. The story of YSK, selected from qualitative data gathered from a cross section of twenty street vendors, aims to vividly illustrate the particular problems and limits of the NBLs that retains the legacy of family-based welfare support.

Case of YSK

YSK is a 69 year old female street vendor without a proper education but who had a rich landowner father, though her biological mother was a concubine. After marrying a poor man, YSK and her husband started a restaurant with her father's support. Despite the success of the business, YSK, alone with her children, moved to Seoul in the 1970s as she had 'got sick and tired of being beaten and asked for more money' by her husband who was addicted to gambling and a perpetrator of domestic violence. But soon after leaving, her husband joined her in Seoul and they started up a new business, this time, with her brother's financial support. However, it was not long before her husband started gambling and abusing her again. When her youngest daughter was in the middle school, about 20 years ago, YSK again left her husband and her children as well this time. However, she had kept contact with her children (two sons and two daughters, with one other son having deceased), mainly with her youngest daughter. However, 10 years ago, YSK had stopped contacting her children due to repeated demands by her son and his wife that she reunite with her husband.

Being single in her late 40s, YSK could make her living as a cleaner and kitchen assistant. However, when she became too old to get this kind of work, she came to Kyungdong-Market to street vend. She was without pension. She paid for the National Health Service but did not go to hospital at all as she was not able to pay the patient charges. Her street vending consisted of selling onions but could not earn her enough money to even be able to afford rice and other basic foods. She therefore did not have lunch unless her neighboring street vendor who sold steamed corn cobs gave her a corn cob or left-over foods.

⁵ A Dong Office is a local municipal office where welfare officials amongst other administrative government officials are located.

Otherwise she mainly survived on instant noodles. This situation had lasted for a period of 2 years.

The difficulty faced by YSK in claiming the NBLs benefits was rooted in her family members and family relationship. When YSK applied for the NBLs benefit, she told the welfare official her life story. However, the welfare official held the opinion that YSK's children had the obligation to support her despite of their current disconnectedness. The welfare officials at the Jegil-Dong Office asked YSK about her son's education level and told her that "if he is a university graduate, he must be well off", giving YSK a long explanation on son's and daughter's duty to support their parents. By emphasizing the supporter's duties, the welfare official strongly implied that YSK should seek help firstly from her son and daughter rather than from the government. When it was found that YSK's second son and second daughter had the ability to support her, the welfare official asked YSK to reconcile with her family and seek support from her children whom she had not seen for the last 10 years and from whom she was estranged.

In the face of the welfare official's direction that YSK seek help from her children, I argued that YSK's case should be considered under the broken family relations, as the NBLs implementation guidelines by the MOHW states that when family relations are broken off, supporters are exempted from their duty to support. However, according to the welfare official's view, YSK's case could not be considered to be one of broken family relations because YSK left home when her children were grown up, for example, when her first and second son were in university and high school respectively. To be defined as broken family relations, YSK would have had to have left home when her children were 'very young', which the welfare official defined as 'at least not when her children were in high school or university'. Therefore, according to this welfare official's view, YSK's children remained with the obligation to support YSK whether they kept contacts with YSK or not.

Regardless of this, the situation was that YSK's children refused to support her. The second son made it clear that he did not want to support YSK. Furthermore, he raised a question as to why on earth he should now support a mother who had left him and his family a long time ago. The second daughter said that she had already told YSK long ago that she would not help her in the future.

Between the welfare official who viewed that YSK's children still had a duty to support YSK and her children who refused to support her, YSK was left with no assistance either from the government or from her children. The last option YSK had under the NBLs law was to ask the government to provide her with the benefits firstly, on the understanding that the government charges the amount paid to her to her children later. However, taking this legal option against her children's unwillingness to support her would mean that YSK's already disconnected family relations would no doubt become even worse, leaving no

hope for reconciliation. To a claimant, the personal price to pay to get government assistance through this method becomes too high.⁶ However, YSK, at the end, requested the state to protect her under the NBLs clause that allows the government to provide welfare support to individuals and reclaim against the non-supporting family members. By taking legal action against her children out of her dire situation, YSK made family relations even worse than before with hardly any hope for reconciliation.

The case of YSK raises a more direct question concerning the boundaries of family responsibility and the state responsibility with regard to the institutionalized values behind the NBLs system. The assumption on an ideal type of family based on a marriage that lasts until death, with family members loving and supporting each other, leads to an exclusion of a person who has failed to establish and maintain such an ideal family, as in the case of YSK. Moreover, this assumption does not reflect the reality of changing family types and structure as well as changing attitudes of family members. Divorce is ever increasing, as is the re-marriage. As in YSK's case, her son, who is also obliged to support his father, raised the question of 'why on earth' he is obliged to support YSK, a mother who had left him a long time ago. The situation can become more complex if, for example, YSK had remarried to a man with children from a previous marriage and then went on to have children with her new husband as well. The kind of situation created by divorce and re-marriage brings about questions as to which child is responsible for which parent, on what grounds and to what extent?

The NBLs system does not provide practical answers to such questions, but rather retains the essence of the Confucian value on family responsibility that has been used to justify the lack of the government commitment in providing welfare of its citizens since the end of Korean War. When it comes down to the implementation stage of the NBLs, it is left to individual welfare officials to interpret the institutionalized value and make a decision on a person's substantive entitlement. But welfare officials, as members of South Korean society, are not free from the historical deeply rooted cultural values, assumptions and beliefs. Furthermore, they are obliged to implement the institutionalized Confucian value under the NBLs system. In the case of the welfare official who was in charge of YSK's case, she viewed that YSK's children were obliged to support YSK as they had received support from YSK when they were 'very young'. Thus, her viewpoint was being based on a broad interpretation of the Confucian value of 'return', implying that parents raise children and, later, children support their parents in return. The welfare official's interpretation of the Confucian value of 'return' is further supported by the institutional mechanism of charging the 'family member who is obliged to support' the amount that the state has had

⁶ In January 11, it was reported that an old man left with the same option as YSK, committed suicide instead of seeking government assistance on condition of charging the amount paid to him to his children. (Major newspapers) In the case of YSK, she told me that since the application was filed, she could not sleep at night, sometimes being awake all night thinking about her life, resenting and crying. When I visited her street vending place in the morning, I often could see her eyes red and her face swollen.

to pay to their family member. In the end, by enacting the legal reclaim provision against the non-supporting family members, the welfare official in question applied the Confucian value of 'return' in drawing a boundary between family obligation and the state obligation. Upon this decision of the welfare official, YSK reluctantly used the last option provided by the government, with the result that family relations were made even worse than before. It is ironic that claiming the NBLs benefits can therefore work in a way that hinders the ideal type of family upon which the very NBLs is based.

The examination of the NBLs implementation process and the case study of YSK raises further questions over what it means to have the right to social security under the NBLs when a right holder cannot realize this right in practice. Furthermore, by not taking account of the reality of family situations but relying on selected Confucian values, the current system either leaves old people in poverty or worsens their already difficult family relations.

Conclusion

South Korea provided minimal welfare assistance up until the mid 1990s. Although South Korea achieved a rapid economic growth under the authoritarian regimes, social policy was largely marginalized. The patchwork development in the social insurance system was mainly for serving economic development and political legitimacy. As a result, people with privileges, such as police, government officials, teachers and workers in large firms became the first group to be protected, while the majority of poor people were largely excluded from the social protection schemes. Selective Confucian values were also promoted to serve economic development and justify the government's lack of financial commitment in providing welfare support. During this period, individual and family responsibility for welfare support was an overarching principle of social policy.

Since the democratization in South Korea in the late 1980s and 1990s, particularly after the Asian Financial Crisis in 1997, there was a so-called 'paradigm shift' in social policy that has brought in a rights-based welfare support system, the NBLs, for the first time in South Korean history. This was against a backdrop of changes in the public attitude toward a greater emphasis on state responsibility in welfare support and a widespread human rights discourse. Voices of civil societies, including demands of social welfare movements, were successfully accommodated under the political environment created by the Kim Dae Jung government.

However, the move toward a rights-based welfare support system has had very limited practical implications. The NBLs system is not free from the long-held social policy principle that puts individual and family responsibility in welfare support prior to state responsibility. Despite the explicit guarantee of

the right to social security of all citizens, many poor people living in absolute poverty are excluded from protection largely due to the legacy of the 'family responsibility first' that does not address the reality facing poor people in South Korea today. This raises many questions with regard to what it means to have a right to social protection when a person in need of social welfare find themselves unable to realize it. Making the right to social security real to those people living in poverty is the task South Korea now faces.

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