

**A CRITICAL COMPARISON OF WORKERS' COMPENSATION  
IN SOUTH KOREA AND CANADA:  
DIFFERENT ROUTES TO THE SAME DESTINATION?**

A CRITICAL COMPARISON OF WORKERS' COMPENSATION

IN SOUTH KOREA AND CANADA:

DIFFERENT ROUTES TO THE SAME DESTINATION?

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## Abstract

Since the historic compromise between employers and workers in Germany in the late 1880s, whereby workers gave up their right to sue their employers in return for an administrative system that would compensate them for medical fees and income losses, Workers' Compensation (WC) has been part of workers' protection against occupational hazards. Neo-liberal globalization, on both the domestic and global levels, with the accompanying drives to increase productivity and reinforce international competitiveness are, however, undermining WC's effective functioning.

The worldwide vulnerability of WC is apparent, and South Korea and Canada are no exceptions. Despite the very different origins and developmental processes of WC in these two countries, in the context of neo-liberal globalization they seem similarly directed. The research aims to develop a comparative and contextualized analysis of the development of WC in these two countries, and to develop a critical analysis of the erosion of welfare through the recent changes in WC in them. Two research questions are thus explored: a) How has WC in South Korea and Canada developed since its adoption?; and b) How have the recent changes in WC in these two countries eroded the notions of the “welfare state” and “citizenship”, which are key to WC's original purposes?

Using comparative policy analysis based on documents review, this research suggests that the advent of WC in Canada was a spontaneous response to social circumstances that demanded an institution to deal with the increase in occupational accidents that accompanied industrialization in the early 1900s. Conversely, WC in South Korea was established through the government imperative for economic growth and its other political purposes, which are typical features of the developmental welfare models.

The initial development of WC in Canada was thus radically different from its counterpart in South Korea; but recent reforms in the two countries demonstrate how neo-liberal ideology and managerialism have both led WC in the same direction. For instance, the employers' financial incentive of the experience rating system prevents the compensation of injured workers, and eventually renders WC ineffective as a social safety net. Early return-to-work programs are consistent with the “welfare-to-work” model for injured workers, and amount to a method of shifting costs from employers to public tax payers. The WC reforms in question, in both countries, reflect a very narrow and restricted conception – a neo-liberal conception – of citizenship.

These “anti-labour” elements of social insurance for injured workers are mainly products of neo-liberal globalization, which emphasizes efficiency and competitiveness above all else. In the context of neo-liberal managerialism, a number of workers in developed countries who are, mostly, non-regular and migrant workers are precluded from the protection of WC. While workers in the North are implicitly marginalized, their counterparts in the South are explicitly ignored by social security systems.

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## Dedication

우선 캐나다에서 공부할 수 있는 소중한 기회를 주신 우리 공단 가족께 진심 어린 감사의 말씀을 드립니다.

이곳 캐나다에서 힘들 때마다 버팀목이 되어 준 아내에게 사랑과 감사의 뜻을 전하며, 이젠 제 삶의 의미가 된 아들 재혁이가 훗날 이 논문을 보며 부끄럽지 아빠의 모습을 떠올릴 수 있길 바랍니다.

무엇보다 저를 낳아 주시고 이곳까지 이끌어 주신 아버지와 어머니께 이 논문을 바치며 이 장을 빌어 부모님에 대한 한 없는 존경과 감사의 말씀을 드리고자 합니다. “아버지 어머니, 사랑합니다. 그리고 고맙습니다”.

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## 1. Introduction

### *Research Contexts*

Despite global advocacy for occupational safety and health, workers in this increasingly industrialized world remain one of the most vulnerable groups. According to the International Labour Organization (ILO), each year worldwide about 268 million occupational accidents happen, and approximately 2.2 million workers lose their lives due to occupational injuries or diseases<sup>1</sup> (International Labor Organization, 2005). This figure may be a substantial underestimation, because some workers are in “informal” labour markets, and not covered by national insurance schemes. The occupational accidents contribute not only to considerable economic losses, which are estimated to reach about 4 per cent of world economic production (International Labor Organization, 2005), but also to the number and magnitude of significant negative impacts on the injured workers and their families, such as physical and mental impairment, functional limitations, income loss, and restrictions on the worker's ability to return to work (Dembe, 2005).

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<sup>1</sup> The glossary for the accidents occurring in the course of, and the injuries and diseases arising out of, work varies from country to country. For example, the terms “industrial accidents”, “work-related”, “employment accidents”, and so on, are used around the world. This thesis, on the other hand, adopts the terms defined by the ILO (2011). The terms and their definitions are as follows:

*Occupational accident*: an unexpected and unplanned occurrence, including acts of violence, arising out of or in connection with work that results in one or more workers incurring a personal injury contracting a disease, or being killed.

*Occupational injury*: any personal injury or disease or death resulting from an occupational accident; an occupational injury is, therefore, distinct from an *occupational disease*, which is a disease contracted as a result of exposure over a period of time to risk factors arising from work activity.

In fact, in most countries injuries in the performance of, or in connection with, jobs were the first contingency sheltered by social insurance systems (Gunderson & Hyatt, 2000a). Industrialization was accompanied by the emergence of the need for social institutions to protect workers from the physical and financial hardships caused by occupational accidents, and to relieve employers of costly and disruptive litigation suits by the injured workers (Law, 2000; Stritch, 2005). In the interests of both workers and employers they reached the “historic compromise” in Germany in 1884, whereby workers gave up their right to sue their employers in return for an administrative system that would compensate them for medical fees and income losses. Since then, in many countries workers' compensation (WC) has been introduced as the first social insurance system to replace wages and provide medical benefits to employees injured in the course of employment. The social insurance program compensating injured workers has played a role in maintaining social stability (Chappell, 2010; Kantor & Fishback, 1996; Strunin & Boden, 2004), inasmuch as WC has given both workers and employers a sense of certainty and, to some extent, predictability about occupational accidents and controls of costs (Law, 2000).

According to Beveridge (1942), the social security system of a welfare state consists of social insurance, public assistance, family allowances and voluntary insurance, in addition to covering basic needs. The British economist and social reformer, who systematized the theory of social security, argued that “the main feature of the plan for social security is a scheme of social insurance against

interruption and destruction of earning power and for special expenditure arising at birth, marriage or death” (Beveridge, 1942, p. 9). Beveridge and his one of students, Leonard Marsh, who was the architect of the modern Canadian social security system, specified several social risks to be addressed, including unemployment, sickness and medical care, disability, old age and retirement, premature death and family needs (Beveridge, 1942; Marsh, 1943). With other social policies, WC was introduced to deal with the foregoing interruptions of earning capacity or occasions requiring special expenditures caused by occupational accidents. The government of an advanced welfare state is supposed to be responsible for providing comprehensive social policies, and the entitlement to those welfare programs, including WC, is considered a “social right” (Zhou, 2009).

Workers' compensation, however, shows a couple of features unique among social policies: its contribution mechanisms, and the distribution of benefits. In terms of financing systems, unlike other social security programs, such as Employment Insurance, the National Health Plan and the National Pension, neither workers nor governments contribute to WC funds; employers are exclusively obliged to pay WC premiums (Jennissen, Prince, & Schwartz, 1998). When it comes to the provision of WC benefits, they are available only for injuries or diseases that are clearly proven to be work-related. In other words, WC benefits are categorically determined, and “it is one of the few social programs that insures employers against potentially ruinous costs” (Jennissen et al. 1998, p. 30).

These unique features of WC provide governments with an excuse to shift their policy interests from workers to employers. Although it is apparent that historically the duty of employers to pay insurance premiums is in exchange for the relinquishment of workers' legal rights to claim compensation, many facts indicate that in the context of neo-liberalism Workers' Compensation Boards (WCBs) represent the interests of business owners more than those of injured workers. In many jurisdictions, for example, non-traditional diseases and injuries, such as chronic stress and repetitive strain injuries, are not recognized as occupational injuries (Shainblum, Sullivan, & Frank, 2000); yet a large number of workers in some industrial categories, including the self-employed and those in small firms, banks and financial institutions, are excluded from the scope of WC coverage (Gunderson & Hyatt, 2000a). Whereas the restricted eligibility for and reduction of WC benefit marginalize injured workers, employers continue to find it lucrative to evade their responsibility in the name of increased productivity and international competitiveness reinforcement (Hyatt & Law, 2000).

In effect, not only WC, but most social welfare programs are undermined by neo-liberal globalization. The free flow of capital that arises from globalization and the development of technology in communication and transportation mean that transnational corporations (TNCs) can relocate their plants to countries with lower regulatory and legislative labour standards (Gunderson & Hyatt, 2000a; LaDou, 2011). Indeed, “the world has become a huge bazaar with nations peddling their workforces in competition against one another, offering the lowest

prices for doing business” (Donahue, 1994, p. 47). In terms of labour costs, then, many countries are in a “race to the bottom”, the better to attract business investment and survive international competition (Lightman, Mitchell, & Herd, 2010; Zhou, 2009). Domestic labour markets have also undergone a major transformation. High unemployment, an increase in non-regular workers, and weakened labour unions are the legacy of collapsed manufacturing industries and attempts to improve competitiveness by reducing labour costs (Shainblum et al. 2000). In short, the cost minimization strategies of companies in the context of globalization have afflicted regulatory authorities' ability to ensure labour standards, and constrained the capacity of national policies to address social problems caused by that same neo-liberal globalization (Lee E. , 1996).

The worldwide vulnerability of WC is apparent, and South Korea and Canada are no exceptions. It was in the 1990s, when neo-liberalism swept across Canada and, subsequently, when the North America Free Trade Agreement and Canada Health and Social Transfer came into effect, that WC reform in all jurisdictions in Canada came under scrutiny, formally and publicly, in the cause of “increasing efficiency” (Chappell, 2010). A Royal Commission was established to re-examine the scheme. In 1994 in Ontario, for example, and in 1997 in British Columbia, it made recommendations, emphasizing the financial soundness of WC funds and the promotion of rehabilitation and early return-to-work programs (Gunderson & Hyatt, 2000a). Similarly, after an economic crisis that resulted in demands for radical reform of public sectors by the International Monetary Fund,

South Korea stepped into the same historical trajectory of WC as Canada had done, with an approximately 10-year time lag. In 2007 the Korea Workers' Compensation and Welfare Service (COMWEL) announced a WC reform plan that focuses on expansion of managerialism and early return to work (Korea Workers Compensation and Welfare Service Research Center, 2009). Specifically, case management was adopted, performance evaluation was expanded, and wage loss benefits for the aged were reduced at that time. Despite the very different origins and developmental processes of WC in these two countries, in the context of neo-liberal globalization, they seem similarly directed.

### ***Research Focuses***

The research aims to develop a comparative and contextualized analysis of the introduction of WC in these two countries, and to develop a critical analysis of the erosion of welfare through the recent changes in WC in them. Consistently, **two research questions** are explored:

- a) How has WC in South Korea and Canada developed since its adoption?; and*
- b) How have the recent changes in WC in these two countries in the context of neoliberal globalization eroded the notions of the “welfare state” and “citizenship”, which are key to WC’s original purposes?*

In answering the first research question, I explore the roles of major policy actors in the introduction of WC and current situations concerning WC in South Korea and Canada. For the second question I then further analyze the

development of WC and current reforms in each country, and their impacts on injured workers through the lenses of “welfare states” and “citizenship”.

### ***Methods***

Comparative policy analysis based on documents review is the method employed. Given that comparative research “helps us better understand why an entire society operates in particular ways by revealing processes that operate over long periods and across societies” (Neuman, 2011, p. 465), comparison of WC policies in South Korea and Canada, which have very different socio-economic backgrounds, is useful in identifying why WCs in these two countries have developed in the same direction, and how injured workers are similarly marginalized.

The first questions researchers in the comparative area have to answer are the obvious ones of what to compare, and how to compare them. Higgins (1981) suggested nine different orientations in comparative research of social policy<sup>2</sup>. Workers’ compensation policy changes in South Korea and Canada are explored by comparing five dimensions of the development of social policies that were identified by Simeon (1976): environment, the distribution of power, prevailing ideas, institutional frameworks, and the process of decision-making.

In order to compare WC policy in the two countries, secondary data derived from the sources listed below are analyzed:

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<sup>2</sup> Higgins (1981) identified nine different emphases in cross-national comparative approaches, although they are not mutually exclusive, and may overlap. They are: 1) policy areas; 2) problem areas; 3) groups in need; 4) the social policies of foreign countries; 5) policy areas in foreign countries; 6) comparisons of total welfare spending; 7) comparisons over time; 8) different and similar systems; and 9) concept and issues.

- Governmental documents;
- Scholarly publications;
- Mass media reports;
- Reports of international and non-governmental organizations; and
- Statistics of governmental and international organizations, such as ILO and OECD.

Comparative research, however, essentially involves limited data, in the sense that the data is constrained by time and space. Knowledge differences over time and cultures can distort the way social phenomena and, even, physical objects are perceived (Neuman, 2011). For instance, documents produced in specific social contexts are likely to be structured for those purposes (Mangen, 1999). The contents of documents and relevant contexts need, therefore, to be investigated that much more carefully.

In addition, equivalence of the meaning of language and concepts is crucial in comparative research (Hantrais, 1999; Higgins, 1981; Lupri, 1968; Neuman, 2011). In terms of lexical equivalence, for instance, Korea calls monetary compensation for medical expenses or loss of income incurred through job-related injury or illness "Industrial Accident Compensation Insurance", while North America uses "Workers' Compensation", and Europe employs a variety of terms, such as "employment injuries schemes" and "occupational accident compensation". Variations in legal frameworks and power dynamics among labour market parties in different countries further complicate the equivalence of concepts relating to WC. The concept of workers' compensation itself includes some ambiguity, because "worker" and "occupational accidents" are narrowly defined in the area of WC. Are domestic services workers, owner-operators of

vehicles, farmers and fishermen eligible for WC benefits? Is a car accident when commuting to the workplace to be considered work related? Unique features of policy factors influencing the language and concepts of WC in both countries are thus considered throughout the research, with particular attention to the specific national cultural, socio-economic, political and legal contexts (Hantrais, 1999).

### ***Organization of the Thesis***

This thesis consists of five sections. After this introductory section, I first discuss the theoretical framework of this study. I begin to identify the unique features of South Korea's and Canada's welfare state regimes in order to explain the introduction of WC in the distinct contexts, and then examine the notion of citizenship to lay a theoretical foundation from which to view the development of WC and recent changes in both countries. In the following section I examine the origin of WC, and some representative examples of recent WC reforms in both countries, through a comprehensive literature review. This investigation provides information fundamental for contextualizing the changes in WC in the neo-liberal context. Then I evaluate developments and recent reforms from the perspectives of the concepts of citizenship and the welfare state. The marginalization of injured workers in the context of neo-liberal globalization both in the Global South and the Global North is also discussed.

## **2. Theoretical Framework**

The theoretical framework of this study is built by drawing upon the theories of the welfare state and the notion of citizenship. Welfare states theories are lenses through which to study the relationship between the state, the market and citizens, including injured workers, and to lay a theoretical foundation for explaining the development of WC and subsequent changes in the relationships between the state, the market and citizens. The notion of “citizenship” is helpful in analyzing citizens’ rights in the changing contexts of globalization and welfare restructuring: in particular, injured workers’ rights in the context of WC reforms.

### **2.1 Theories of the Welfare State: Canada and South Korea**

A welfare state generally comprises a set of social policies and institutions to provide protection from a variety of social risks and needs, such as poverty, illness, old age, disability and unemployment (Kwon H. J., 2005; Zhou, 2009).

Welfare state regimes refer to

clusters of more or less distinct welfare state types in terms of the principles of stratification and the basis of social rights on which social policy is built. These principles, which result in qualitatively different arrangements amongst state, market and family, are reflected in the configuration of policies relating to targeted versus universalistic programs, the conditions of eligibility, the quality of benefits and services and, perhaps most importantly, the extent to which employment and working life are encompassed in the state's extension of citizen rights (O'Connor, 1993, p. 502).

In this section I explore the features of the Canadian welfare state, particularly in relation to the state, citizens and markets, by using Esping-Andersen's criteria. Following that, the distinctive features of the South Korean welfare state model, stemming from its own socio-economic and cultural soils, are explained.

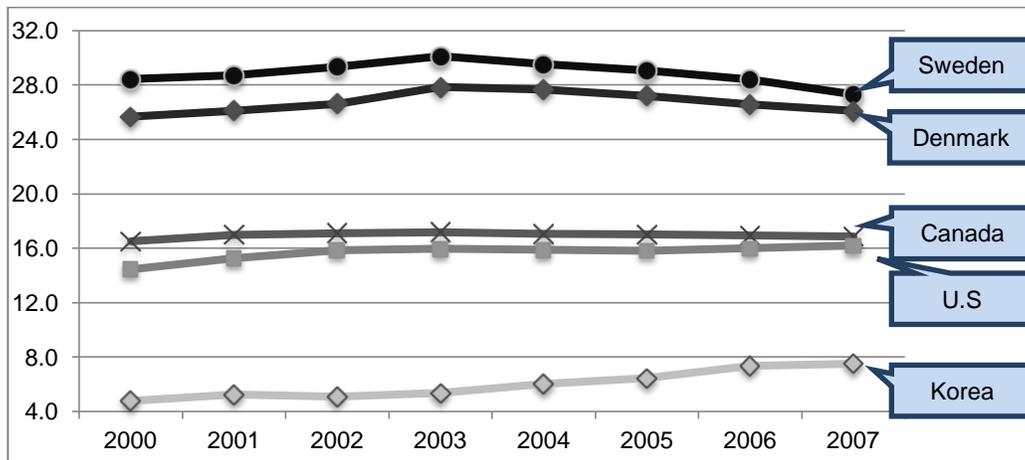
### **2.1.1 Canadian Liberal Welfare State Regime**

In his book, *The Three Worlds of Welfare Capitalism*, Esping-Andersen (1999) classified welfare state regime types on the basis of decommodification: the degree to which an individual's welfare is reliant upon the market, particularly with respect to pensions, unemployment and health insurance; social stratification; the role of government in reducing social stratification, and the relationships among state, family, the voluntary sectors and the market in welfare provisions (Esping-Andersen, 1999; Bambra, 2007). He categorized 18 OECD countries into three types of welfare states: a) the liberal regimes, which have very low levels of decommodification, and modest and strict welfare benefits; b) the conservative (corporatist, Christian democracy) regimes, where social benefits are dependent on previous contributions and in which the role of family is also emphasized; and c) the Social-Democratic welfare state regimes, which are characterized by universal welfare provision and high degrees of social equality (Esping-Andersen, 1999; Arts & Gelissen, 2002).

Esping-Andersen (1999) put Canada in the category of the liberal regime: while the notion of the market and private provision is dominant, the state only

takes care of poverty and basic needs on a means-tested basis. In other words, the state functions as the last resort of social protection. Indeed, the chart below indicates that the public intervention of Canada's government is very reluctant and, even, slightly in decline, and almost same as in the United States, which has the most residual social welfare system in the world.

Chart 1 Total public social expenditure as a percentage of GDP



Source: Organization for Economic Corporation and Development (<http://stats.oecd.org>)

Unit: Percentage

Note: The policies included are old age, survivors, incapacity-related benefits, health, family, active labour market programs, unemployment, housing, and other social policy areas

Although other researchers have analyzed the Canadian welfare state regime slightly differently, it seems evident that Canada belongs to the liberal welfare state that Esping-Andersen depicts (Arts & Gelissen, 2002; Ferragina & Seeleib-Kaiser, 2011; Korpi & Palme, 1998; Siaroff, 1994). They consider the free market the most efficient system not only for economic growth but, also, for social order and political freedom, and that the success of a free market relies on independence from governments (Won, 2005). Unless the state intervenes in the

market, the market's self-regulatory mechanisms can afford to provide well-being to the people who are involved in it (Esping-Andersen, 1999). They argue further that government welfare provisions should stay at a minimum level, because a generous welfare system can cause undesirable results: it turns aside social resources from productive processes; it weakens work motivation; and it promotes distortion in service industries (George & Wilding, 1976). According to Esping-Andersen (1999), in the liberal welfare state minimum means-tested social assistance programs for individuals who are incapable of market participation can be introduced only to prevent the extension of unconditional social welfare: that is, the state can intervene where the market cannot do anything. Moreover, they believe that socially, the expansion of a welfare state would result in damage to traditional welfare sources, such as the family, the local community and voluntary service organizations (George & Wilding, 1976).

Given that Esping-Andersen's study was conducted based on the data produced before neo-liberalism became dominant, it is to some degree inevitable that his typology is somewhat remote from the situation of the contemporary welfare state. One of the criticisms of his study is, however, that it does not well reflect the current reality of neo-liberalism and its impacts on welfare states (Bambra, 2007). In the context of neo-liberalism, "the dominant ideology of economic globalization", the welfare state cannot undertake its responsibility to provide its citizens with wide-ranging social protection for the economic competitiveness, efficiency and productivity of companies (Zhou, 2009, p. 392).

Guided by the United States and the United Kingdom, most neo-liberal governments retrench social welfare programs to address governmental budget deficits (Chappell, 2010; Hick, 2004). Since the early 1980s the followers of Reaganomics and Thatcherism have carried out a series of welfare reforms characterized as based on individualization rather than on communitarian and collective values for citizens' welfare, decentralization of social welfare responsibility and accountability to small and multiple units, and privatization of social welfare system (Brondie, 1999).

Social insurance, including WC, is one of major pillars of the social welfare system, regardless of type of welfare state regimes, in many countries. It may be described as “the special technique of organizing provision collectively by securing contributions from various groups for a need which cannot be left safely to individuals' or families' own resources” (Marsh, 1943, p. 24). The social insurance principle, the mechanism of pooling risks, can be an appropriate social policy instrument for some social risks, given the unpredictability of certain social hazards and contingencies in modern economic life, and the insufficient resources of individuals to take care of such risks (Marsh, 1943). Neo-liberalists, however, are roundly against the social insurance principle. They condemn the “camouflaging of taxation as insurance” that brings about the reduction of individuals' rights and duties for their future by levying a large portion of their income to finance social insurance benefits, hindering employers from hiring workers and, consequently, increasing unemployment (George & Wilding, 1976,

p. 39). Meanwhile, in the liberal welfare state regimes, the obligatory social insurance could be market oriented by pegging eligibility and distribution of social insurance to job-seeking activities and the level of contribution (Esping-Andersen, 1999). Even social insurance programs -- for example, the old age pension plan -- are viewed as a means to increase the flexibility of labour markets by “weeding out” the old workers (less efficient workers) from the market with national pensions (Esping-Andersen, 1999).

Esping-Andersen’s classification has been criticized for its gender blindness and the narrow range of countries compared (Bambra, 2007; Arts & Gelissen, 2002; Holiday, 2000). By his standards, South Korea like Japan is the conservative regimes of Continental Europe, inasmuch as its social welfare policies are predicated upon people’s regular employment status (Chang, 2012a). It is also, though, somewhat akin to liberal welfare systems, given the low levels of public spending and high degree of social inequality (Kim & Seong, 2000). Yet unique aspects of welfare regimes in East Asia, including in South Korea, cannot be explained by Esping-Andersen’s criteria.

### **2.1.2 Developmental Welfare State in South Korea**

The terms social policy scholars use to convey the distinctive characteristics of welfare systems in East Asia, - such expressions as “Confucian welfare states”, “a hybrid of conservative and liberal welfare regimes”, “Japan-focused welfare regimes” and “productivist welfare states” - have some features in common (Kim

Y. M., 2008). Holiday (2000), reciting Wilding's analysis, characterized those commonalities as follows: “[L]ow public expenditure on social welfare, a productivist social policy focused on economic growth, hostility to the idea of welfare states, storing residual elements, a central role for the family, a regulatory and enabling role for the state, piecemeal, pragmatic and *ad hoc* welfare development, use of welfare to build legitimacy, stability, and support for the state, and limited commitment to the notion of welfare as a right of citizenship” (p. 715). In other words, the strategic role of the state in economic growth takes priority over other areas of social policy (Kwon H. J., 2005). This sort of welfare state regime, further, was influenced by Confucianism, which emphasizes duty to immediate family members, diligence, and a strong education and work ethic (Bambra, 2007).

While it is not entirely persuasive to say that it is only in Asia that policy makers tend to consider the non-welfare consequences of introducing welfare policies (Kim Y. M., 2008), in South Korea after the Korean War a number of social welfare policies were introduced that had a political purpose. A social insurance program in the early stage of welfare development was targeted exclusively at workers in conglomerates, soldiers, and government officials<sup>3</sup>, who were considered critical for maintaining the regime. In this respect, given that this welfare program was for particular classes, while vulnerable groups such as the

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<sup>3</sup> In Korea the Civil Service Pension for government employees and the Military Personnel Pension were introduced in 1960 and 1962, respectively, while the National Pension Plan was implemented in 1988.

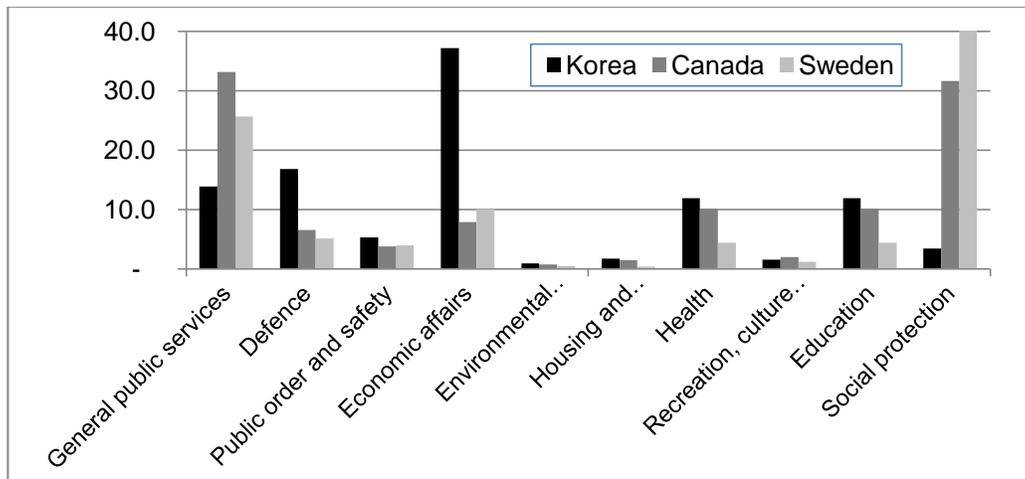
poor, workers in small businesses, and farmers, were neglected, social policy actually exacerbated social inequality (Kwon H. J., 2009).

The financial crisis in the late 1990s and early 2000s was a catastrophic turning point for social welfare in East Asia, including South Korea. In contrast to the welfare retrenchment expected in an economic recession, South Korea experienced expansion, in both quality and quantity, of welfare programs, including the introduction of the National Basic Livelihood Security System and expansion of employment insurance. The South Korean government unprecedentedly addressed social issues stemming from the crisis by extending welfare provisions (Kwon H. J., 2009), because the weakness of the existing social safety net, the rapid increase in unemployment and the bankruptcy of companies threatened to dismantle the regime. The government thus had no choice but to alleviate political and economic risks through social welfare provisions.

Another significant factor for welfare expansion is the emergence of civil society (Kwon H. J., 2009). The crisis inspired citizens, especially the middle class, who had been devoted to conservative developmentalism, to realize that the government was unable to protect them against a number of social risks, and that economic growth alone would not produce their well being. Welfare advocacy networks were organized, and began speaking out, with demands for bottom-up policy making (Kim Y. M., 2008). In particular, the cross-class welfare coalition was formed, and since then the new middle class-led movement associated with

established working-class organizations has politically influenced welfare policies (Kim Y. M., 2008).

Chart 2 Distribution of expenditures of central government in South Korea, Canada and Sweden



Source: Organization for Economic Cooperation and Development (<http://stats.oecd.org>)

Unit: Percentage, as of 2008

Note: Social security funds controlled by central government and transfers between the different levels of government are included.

South Korea nevertheless remains a less developed country when it comes to social welfare. Its system's development, institutionally and technically, after the economic crisis notwithstanding, productivism continues to heavily influence its philosophy and fundamentals; the recent increase in welfare provisions was a short-term reaction to financial crises, and an instrument to boost economic competitiveness and growth (Kwon & Holiday, 2007). The chart shown above illustrates how much South Korea's social welfare policies are subordinate to its pro-economic growth policies. Even with a new regime and a relatively progressive president since 2003, public service and social protection account for

little governmental expenditure, and a huge portion of the budget is invested in the economy and in education and human capital related areas: something typical of developmental welfare state regimes (Holiday, 2000).

## **2.2 “Citizenship”, “Rights” and Welfare Policies**

### **2.2.1 Notion of Citizenship in Changing Contexts**

Marshall argued that citizens, as full members of society, have: civil rights, “necessary for individual freedom - liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice”; political rights, “the right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body”; and social rights, which “range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society” (Marshall, 1992, p. 8).

Since its exposition in 1950 in the book “*Citizenship and Social Class*”, the notion of citizenship has provided a theoretical foundation for many welfare policy developments and social movements around the world. Following the decline of the “golden age of the welfare state” in the 1970s, however, this idea was attacked by the free marketers, who asserted that economic efficiency generated by the free market is the most crucial factor for public well-being, and

that the idea of citizenship is an absurdity disturbing the market order (McCluskey, 2002).

Pointing out the coincidence of the evolution of citizenship along with the rise of capitalism, which is essentially a system of inequality, Marshall (1992) argued that those contested concepts have been and are compatible, because social inequality reinforces the incentive to gain those rights (Marshall, 1992). Yet he overlooked the truth that inequality itself can fundamentally undermine citizenship in a neo-liberal capitalist society. Because neo-liberalism emphasizes economic efficiency, and not state intervention in the free market, its supporters believe that redistributive mechanisms inherently obscure the “individual’s rational economic choice”, and that the effort to divide the societal pie to ameliorate social inequality in welfare states is not just a matter of inattention to economic logics, but a seductive, yet treacherous, policy (McCluskey, 2002). They argue further that the role of government is simply to secure individual rights in order to let each person seek their own happiness (Glenn, 2000). Neo-liberalism similarly asserts that “second-class” citizens, such as the disabled, senior citizens, children and the jobless, who benefit from redistributive welfare provisions, should be deemed not eligible to assume their rights and duties as full members of society because of their incapacity (Bottomore, 1992; McCluskey, 2002).

Scrutinizing the relationship between citizenship and social security, Plant (2003) proposed two different concepts of the former. In the context of social

security, citizenship as a “*status*”, which is provided as long as people are involved in a nation-state, is based on the security of common need and common rights, such as health and education, which should be protected by universal welfare policies. But alternative *achievement or obligation-based citizenship* places more emphasis on reciprocity, virtue and contribution, which means that individuals are not entitled to the use of the resources of society if they are not involved in any type of work or other socially valued activities (Plant, 2003). In this sense, it is arguable that the dangers of exclusion, differentiation and limited contractual rights are inherent in social insurance programs (Plant, 2003), which are financed by the contributions of citizens. Glenn (2000) also held a negative opinion about the concept of citizenship based on a social contract. He argued that “equality among citizens rested on the inequality of others living within the boundaries of the community who were defined as non-citizen” (Glenn, 2000, p. 2). For instance, even though many marginalized workers, such as seasonal and unpaid, contribute to social development, they are not “the insured” of WC in both countries, because their value and contribution is systematically still unrecognized.

As explained, “social rights” are citizens' rights to economic security and social well-being, realization of which depends on state intervention, while “civic rights” comprise freedom of the person and the rights to conclude valid contracts and to own property. In the context of neo-liberalism, eligibility for some social welfare services, such as health care and public housing are viewed as civic rights

that individuals can fulfill through the market, rather than rights of social citizenship; and policy makers have tried to use a civil rights discourse to realign these social policies away from the universality principle and toward a narrow interpretation of rights that is consistent with market logics (Bhatia, 2010). With this paradigm shift, social welfare programs - including WC, which is already privatized in some jurisdictions, such as the United States and Australia - are not a collective social right that should be protected by the states, but an individual's civic right: one that individual consumers can buy freely (Bhatia, 2010; Brodie, 2007).

Marshall's notion of citizenship was developed based on European and, in particular, British experiences, including a history of feudalism, the Industrial Revolution and capitalism. The questions are, then, whether this Western idea can be applied to other non-Western contexts, and how it may be adapted to them.

### **2.2.2 “Citizenship” Theory in the South Korean Context**

In elucidating the development of the notion of citizenship, political rights in the nineteenth century and social rights in the twentieth cannot be explained without mentioning the rapidly growing working class movement (Bottomore, 1992). Political democracy, an organized working class, and economic prosperity were considered to comprise the main impetus for the expansion of citizenship in Europe (Stephens, 1999). South Korea, however, presents some unique features in terms of the advancement of citizenship and, in particular, of social rights. As

both political democracy and economic growth in that country reached the level depicted in “Miracle on the Han River”<sup>4</sup>, procedural political and civil rights have expanded constantly through the demise of military rule in 1987 and economic prosperity in 1990s.

South Korea has had its own underlying barriers to the advancement social rights and more universal welfare policies, and they are different from those in the European experiences. First, the scarcity of historical experience of social democracy in South Korea fundamentally deters the public from envisioning or embracing social citizenship rights (Chang, 2012a). Rooted in the Korean War, the “red complex”<sup>5</sup> compels South Korean society to eschew socialistic policies. Second, even the people belonging to the working class themselves agree that the most important duty for the state is economic development, the benefits of which will trickle down some day. In addition, the Confucian influence, which emphasizes allegiance to the state and propaganda by developmental authoritarian regimes, makes them willing to sacrifice their social rights and social justice for economic growth, and to accept instead, “developmental citizenship”.

South Korean “developmental citizenship” indicates the fundamental nature of interactions between the state and citizens in the context of rapid capitalist development and neoliberal restructuring; that is, “while the

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<sup>4</sup> The Han River is the one running through Seoul, and this term, borrowing from ‘the Miracle of Rhine’ in old West Germany, is used to refer to South Korea's highly accelerated economic growth, which miraculously transformed the country from the one of the poorest after the Korean War to a wealthy and highly developed one in the late 1980s.

<sup>5</sup> Red complex is a term referring to radical anticommunism (identifying red with communism): one that is, uniquely, used in South Korea.

developmental state once successfully mobilized and rewarded its citizenry in the state-organized programs of industrialization and economic growth, its reluctance to arrange adequate social security (or acknowledge its duty of protecting social citizenship) would result in mass devastation at times of economic depression” (Chang, 2012b, p. 7). It is, in its essence, an ideology according to which social rights should be protected through economic participation in the market (Aspalter, 2006).

In South Korea education, which is considered a core base for citizenship achievement, means forfeiting the opportunity to be a “full member of society”, and fosters social inequality, in the sense that education in South Korea is managed on the basis of market logic. Marshall (1992) stressed the significance of education in building citizenship:

The education of children has a direct bearing on citizenship, and, when the state guarantees that all children shall be educated, it has the requirements and nature of citizenship definitely in mind [...] The right to education is a genuine social right of citizenship, because the aim of education during childhood is to shape the future adult (p. 16).

Japanese colonization encouraged acknowledgement of the vital functions of school for social and economic modernization, but South Korea’s political power positioned education as a political instrument: that is, the regimes prior to democratization misused the education system to coerce political indoctrination and quasi-military regimentation (Chang, 2012b). Ultimately, this distorted view of education backfired on the regime: university students and professors

participated in pro-democracy movements, and campuses became arenas for public debates on citizenship improvement (Chang, 2012b).

Zeal for education is a factor in protecting social and economic rights and also, more intrinsically, in increasing social inequality. Given the huge proportion of private education, and educational credential differences, educational inequality make South Korean society more socio-economically unequal. As the table below shows, whereas at all levels South Korean government spending on education is below the average of OECD countries, South Korea is second to none in private expenditure on education, which is three times more than in OECD countries, and almost 18 times higher than that of some Scandinavian countries. Even though Marshall (1992) maintained that people acquire the skills and knowledge required to be “a full member of society” through education, in South Korea school is to some degree one of the mechanisms preventing people from being full citizens, inasmuch as parents' ability to afford it determines their children’s access to adequate education.

Table 1 Public and Private Expenditure of OECD Countries on Education

	OECD Average	Korea	Canada	Sweden	Finland	U.S	U.K	Japan
Public expenditure	4.990	4.745	4.592	6.129	5.731	5.142	5.123	3.275
Private expenditure	0.897	2.809	1.446	0.170	0.139	2.098	0.588	1.658

Source: Organization for Economic Cooperation and Development (<http://stats.oecd.org>)

Unit: As a percentage of GDP, 2008 or latest available year

Note: Expenditure on all levels of education

### **2.2.3 Global Citizenship and Human Rights**

Globalization, the creation of a global economy characterized as an unleashed flow of capital across borders, has given rise, through economic disparities, to new types of inequality based on geography, race, class and gender (Glenn, 2000). A globally expanded economic structure has reduced the state's capacity to manage its own economy and to develop social policies. Meanwhile, the power of transnational corporations increases, subordinating citizens and states, especially weak states, to the market (Zhou, 2009). A new understanding of citizenship in the context of this new reality is thus necessary. Soysal (1994) asserted that the concept of citizenship is now in transition away from the sovereignty of the nation-state towards more universal and global norms. The dramatic increase in global labour migration means that the exclusivity of citizenship-based rights has to yield, and the idea that those who are not citizens also have rights must be embraced (Seol, 2012). To expand the notion of citizenship from nation-state membership to globally-based human rights, it is necessary to see citizenship as a fluid and progressively transformed concept not separate from political struggle (Glenn, 2000), because "all human rights - civil, political and social - are continually developing and should not be regarded at any historical moments as having attained a final, definitive form" (Bottomore, 1992, p. 91).

The debate on an alternative concept of citizenship is advanced by distinguishing between "formal" and "substantive" citizenship. While the former

refers to “membership of a nation-state” - namely, a political community, such as nationality, permanent residency or visa status - the latter is an array of individual rights structuring the foundation of membership, and a series of institutions and practices to guarantee those rights (Bottomore, 1992; Seol, 2012). The relationship between the two sides of the formal and substantive citizenship coin has, however, complicated dimensions: given that, on one hand, maintaining national identity and historical traditions through stringent control of formal citizenship is significant, especially for nation-state citizens; while on the other, some people are concerned with the civil, political, and social rights of individuals living in same community (Bottomore, 1992). It can, therefore, be argued that the issues associated with citizenship, particularly social rights, should be approached from the point of view of a body of general human rights to which each individual is entitled, regardless of where they have formal citizenship, or whether they are working, and that these human rights issues should be addressed on a global scale in the context of international inequalities (Bottomore, 1992).

An alternative discourse on the broader notion of citizenship beyond that of the nation-state concerns is the idea of “cosmopolitanism”, according to which “the world’s nation states can cooperate through multilateral institutions, international law and human rights conventions to promote human well-being and social justice” (Midgley, 2007, p. 27). Whereas many scholars cast doubt on the possibility of materialization of the idea of the “citizen of the world” in the face of hegemonic struggles among countries and the relentless chase for economic

profits (Bellamy, 2008), proponents of the idea suggest that the hope that the power of globalization can be diverted to contribute to human beings is a primary element of cosmopolitanism (Midgley, 2007). They also argue that because the force of globalization paralyzes many social institutions, including the state, welfare system, class organization, and so on, that were established before the “one world” (Chang, 2012b), the creation of international institutions, such as the International Crimes Court, is needed to address international social problems caused by global free trade and financialization, borderless ecological and epidemiological hazards and transnational demographic flows (Midgley, 2007).

### **3. The Origins and Development of WC in South Korea and Canada**

#### **3.1 The Origins of WC in Both Countries**

The basic principle of WC is almost the same in both countries. Common law liability - particularly, rules concerning negligence - was replaced by WC as a method for workers to recover payments from employers for the consequences of work-related injuries. Injured workers were compensated by social insurance programs, without struggling with the employer, at the cost of giving up their right to sue their employers (Kantor & Fishback, 1996; Strunin & Boden, 2004). Canada and South Korea thus share major principles as a form of social insurance for the WC, such as no-fault compensation, collective liability and exclusive jurisdiction.

It is noteworthy, however, that each country has its unique features in the process of the development of WC. Simeon (1976) identified five general approaches to explain the development of certain social policies: environment, the distribution of power, prevailing ideas, institutional frameworks, and the process of decision-making. In this section, the evolution of WC in Canada and South Korea is elucidated, based on the five dimensions noted. As Simeon (1976) mentioned, however, one approach alone cannot explain how certain social policies have evolved. The factors are complementary, not mutually exclusive; and indeed, the interconnections between them are vital to understanding the development of social policies (Simeon, 1976).

### *Environment*

In general, an environment for politics refers to “such broad characteristics as demography, geography and levels of urbanization, wealth, industrialization and the like” (Simeon, 1976, pp. 566-567). Given the change in economic and industrial environments in Canada in the early 1900s, the emergence of the compensation system was a spontaneous reaction (Stritch, 2005). In the first decade of the twentieth century, Canada experienced rapid economic growth and industrial changes boosted by an influx of money and technology from the United States (Guest, 1997). The size of the manufacturing industry skyrocketed by 76.5 per cent during that period; accordingly, the number of workers who got injured in workplaces also increased dramatically (Jennissen et al. 1998; Stritch, 2005). In 1909, reported accidents were 561.6 per year, which was 10 times more than the 54.2 per year in 1888 (Stritch, 2005). In addition to the expansion of the manufacturing industry, the reason for the climbing number of injured workers was the automatic machinery that replaced skilled with inexperienced workers: mostly migrant workers from rural areas and abroad, who were more likely to be exposed to accidents (Guest, 1997; Stritch, 2005). Moreover, labour intensity worsened after the working pace had sped up with the introduction of automated processes, such as the conveyor belt.

This dramatic shift in the labour environment triggered considerable changes in pre-existing, legally based compensation mechanisms that had favoured employers’ interests (Dee, McCombie, & Newhouse, 1987). The

increase in occupational accidents afflicted business owners with large and unpredictable costs arising out of accident liability lawsuits. In Ontario, the Factory Act (1884) asked employers to equip their factories with safety devices, and the Employers' Liability Act (1886) imposed liability on employers for damage to workers caused by accidents, so that the employers sued by the injured workers faced financial hardships, and some small-sized companies went bankrupt (Law, 2000). Neither could the workers afford the delays and costs of litigation; they suffered poverty during their lawsuits, and endured uncertainty as to the outcome (Guest, 1997; Gunderson & Hyatt, 2000a). Thus it was that occupational accidents inspired and informed the debates in which alternative systems for reducing social costs were sought, and as a result of which agreement among the three workplace parties - workers, employers and government - on establishing the first social insurance program in Canada was reached (Jennissen et al. 1998).

The environment of rapid industrialization and consequent increasing number of victims of industrial accidents was an important starting factor for the development of WC in Canada. The change in the industrial environment can, in fact, be said to have contributed to the emergence of WC, not only in Canada but, also, in most developed countries (Gunderson & Hyatt, 2000a).

In contrast with Canada's experience, the development of WC in South Korea shows unique characteristics in the sense that it was introduced solely for political legitimacy, rather than as a product of industrialization. When the

Workers' Compensation Act came into effect following the Korean War, socio-economic circumstances were insufficiently mature for the introduction of WC. Over 60 per cent of the population worked in agriculture, and less than 10 per cent were engaged in the manufacturing industries (Woo, 2007). The level of industrialization was thus too low, and there was no great need for a social policy to deal with the social risk induced by industrialization, as was the Canadian experience.

It is thus more meaningful to seek the origin of WC in the South Korean political environment. Four years prior to implementation of WC, and after a military revolution in 1960, the regime needed legitimacy and support from the people to maintain power. Members of the cabinet started talking about social security, and decided to introduce WC as the first social insurance plan in the country. They did so because, first, WC demanded less of the national budget than other social insurance programs to which the government ought to have contributed, given that WC operates only through employers' premiums (Ministry of Employment and Labor of Korea, 2004). Also, the influence of Confucianism and the patriarchal social structure of South Korean society meant that families and communities were largely responsible for dealing with social problems, such as poverty, and with diseases and disability, and people considered social welfare policies as expressions of the communism against which South Korea had fought just a decade before (Lee S. R., 2008). In effect, such features as subordination of social policies to economic growth, the family's role in social protection and

policies designed for political legitimacy can be detected in other South Korean social policies, as well as in those of other developmental welfare state regimes in East Asia (Holiday, 2000).

### *Power*

Sharp conflicts of interest among workplace parties, including labour unions and employer associations, were observed in the development of WC. With respect to the characteristics of the Workers' Compensation Act in Quebec, Stritch (2005, p. 574) asserted that an imbalance between the respective influences on the WC policy making process of business and labour disadvantaged the workers, inasmuch as “the general weakness of social democratic forces in Quebec at the time, the low level of union density, splits in the labour movement, a reluctance to engage in political action, the marginal presence of left-wing political parties, and a general lack of resources for policy research” were the main reasons for the meagreness of the impact of the labour movement on WC. That labour unions paid little attention to the process of legislation was evident from the fact that the representative from the National Trade and Labour Congress scarcely participated in the debate on the Workers' Compensation Act at that time, and even made benefit suggestions that were more restrictive than those proposed by the Canadian Manufacturers' Association (Stritch, 2005). Conversely, the organized economic power of capital allowed much more effective representation of interests, especially with the Liberal governments, which prioritized industrial

development (Stritch, 2005). Not surprisingly, then, in the WC Act the interests of the employers were much more effectively reflected than those of labour.

In South Korea WC was introduced when the country was under a dictatorship following an upheaval: when all national institutions were controlled by the government, with a consequent loss of autonomy. There was, then, no chance of a grassroots democracy movements growing, and no space for labour-related interest groups to voice their opinions on the introduction of WC. What is worse, the Japanese colonization (1919~1945) and the Korean War (1950~1953) devastated any foundation for social activities and labour movements (Woo, 2007). It is thus meaningless to attempt to discuss the power and influence of any interest groups in the Korean WC policy process, because all power was in the hands of the government.

### *Ideas*

According to Simeon (1976), social policies reflect dominant contemporary ideas, values, theories, and beliefs in a society, so it is important to examine cultural and ideological factors when analyzing policies. It is thus necessary to explore the time that WC emerged, and who wanted it. In Western countries, including Canada, the time approximately coincided with the progress of industrialization and capitalism. The climbing number of injured workers and subsequent law suits may have been intimidating to employers, government, and capitalism itself. Interestingly, it was employer groups, not labour unions, who asked for a

replacement for the liberal compensation system (Gunderson & Hyatt, 2000a). Even in the United States, “the Workers’ Compensation Act could be seen as the means by which employers protected themselves against an impulsive and hostile legal system” (Berkowitz & Berkowitz, 1984, p. 262). In Canada, employer groups also deplored the risk of expensive lawsuits and peculiar verdicts by petitioning for the adoption of WC (Stritch, 2005). Given that WC was introduced to address the social risks caused by industrialization, and that it was employers who were most interested in adopting WC, it can be inferred that capitalists and government believed that WC could contribute by getting rid of obstacles that inhibited the development of an industrialized society.

Following major socio-economic changes in Canada at the end of the nineteenth century, such as the “completion of an all-Canadian transcontinental railway, the promotion of large-scale immigration, the opening of western Canada to settlement and the fostering of Canadian industry by means of protective tariffs”, three social goals emerged, and were eventually accepted: “to settle the country's vast and sparsely inhabited western regions; to promote a strong, integrated, and varied economy; and to make Canada the homeland of a prosperous and contented people” (Guest, 1997, p. 20). What is more important from the point of view of social integration, the improvement of working conditions and quality of life for factory workers were the main interests at all levels of society, inspired by an aggressive and articulate labour movement (Guest, 1997). Furthermore, following a huge influx in the late nineteenth century of

migrant workers from China, Europe and South America, with diverse values and cultures, social conflicts and discords generated by industrial accidents became major problems (Chappell, 2010). The government was obliged to create an institution to address the issue for the sake of preserving social stability (Guest, 1997; Hick, 2004).

The South Korean socio-political climate of the 1960s adequately accounts for the introduction of WC. The political motive was legitimacy, and the economic one, the advancement of industry, was the single theme of all social policies at the time, and a typical one of developmental welfare states (Holiday, 2000). The new military regime, which came to power through a *coup*, forced each social sector out of liberalism and autonomy, and subjected them to state control. They thus rejected liberalism in labour-management relations for the sake of rapid economic growth (Woo, 2007). Compensation for occupational accidents through collective bargaining and the reinforcement of employment liability was considered inappropriate by the government, and WC was the alternative replacing an autonomous solution for occupational accidents (Kim H. , 2005).

### ***Institutions***

The approach I am taking involves attending to the “way in which government is organized, the degree of centralization or decentralization, the way authority is shared, and the formal mechanisms for registering decisions” (Simeon, 1976, pp. 575-576).

Three institutional factors in the adoption of WC in Canada can be mentioned: the influence of the judicial branch; federalism; and the organization administering the WC schemes. Judgments by the judicial branch sometimes create turning points for a society, with reduced influence from the political and economic elements, with increased attention to and respect for principles of modern law, such as human rights, equality, and freedom. In the context of the development of WC in Canada, the institutional autonomy of the legal process and the jury system, and its imposition of employer liability for occupational accidents, started to interfere with capital accumulation, and constituted a stimulus for change (Law, 2000). Unlimited awards to, and unexpected outcomes of, lawsuits filed by injured workers caused employers financial hardship: in particular, the Quebec Civic Codes, which were slightly stricter on employers' liability than was English Common law, with a broader definition of liability, aggravated the burden on employers (Gunderson & Hyatt, 2000b). In reaction, "the Workers' Compensation Act was an attempt to circumvent an institutional autonomy within the state that was detracting from capital accumulation" (Stritch, 2005, p. 553).

The situation in Ontario paralleled that in Quebec. Before the Factory Act and the Employers' Liability Act came into effect in 1884 and in 1886, respectively, employers possessed many defences, such as contributory

negligence<sup>6</sup>, common employment<sup>7</sup>, and assumption of risk<sup>8</sup>, to escape liability (Hick, 2004). Following the introduction of those Acts, although the courts still required workers to prove the negligence of employers, the common law defences just noted considerably deteriorated (Law, 2000). The resulting change in the judgmental inclination of the judicial branches was a major impetus for the development of the WC system, in the sense that it increased the chances of workers to win lawsuits; and, on the other hand, employers, facing a greater likelihood of having to compensate their employees (Guest, 1997), demanded that policy makers alleviate their financial burdens.

Evidence for a relationship between the federal and provincial governments in Canada in the implementation of WC is hard to find. In the United States, however, the debate about which level of government should be responsible for WC is fierce. The two major points are duplication of benefits by other social security programs, and the different levels of compensation by states. The supporters of federal government-administered WC have argued that a state government-run WC system can result in an untenable distinction between occupational and nonoccupational disability, and they have tried to integrate the WC benefits into the disability benefits of the Social Security Act and the

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<sup>6</sup> If the injured worker himself was negligent or had not exercised due care, the employer could escape legal liability (Dee et al. 1987).

<sup>7</sup> When a coworker (fellow servant) caused the accident, the employer was exonerated (Dee et al. 1987).

<sup>8</sup> The employee assumed the usual risks of the job, and the wage was assumed to reflect those risks (Dee et al. 1987).

employment insurance administered by the federal government (Berkowitz & Berkowitz, 1984). Another criticism of WC being run individually by each state is that some states pay inadequate benefits, and in some states certain groups of workers are not even covered (Strunin & Boden, 2004). From the viewpoint of politicians in Washington D.C., this unequal coverage by and level of benefits was one of the obstacles to national integration.

Last, the status of the organizations carrying out WC is important, inasmuch as each organization's autonomy and political and economic independence can be determined by its character. Because WC operates only on the basis of premiums paid by employers, and the WC board has the responsibility to manage the WC fund, independence and autonomy are significant factors (Rixon, 2010). In some countries, such as the United States, conversely, the notion of exclusive jurisdiction is challenged (Berkowitz & Berkowitz, 1984). In Canada many public services have been entrusted to agencies, and “WC boards are arguably the most autonomous in comparison to other government agencies such as health care and social services” (Rixon, 2010, p. 222). The form of “board organization” in Canada, consisting of the same number of representatives from each of labour, employers, and public interest groups, seems more neutral and accurately reflective of the interests of all members of society than are corporate organizations in South Korea, where the president of the organization, appointed by the government and the Ministry of Employment and Labour, has the authority to supervise implementation.

*Process of decision-making*

The last way of approaching WC in South Korea in Canada is by referring to the process of decision making itself: a process that takes place in institutions, as we have seen. This approach tries to understand how the policy makers, such as bureaucrats, politicians, and interest group leaders, interact with other groups in policy making (Simeon, 1976). In his article “*Power Resources, Institutions and Policy Learning*”, Stritch (2005) identified this approach as a “learning process”, defined as “a process of evaluating new policy ideas, past practices and foreign precedents in the context of dissatisfaction with the status quo” (p. 553). In addition, he argued that when it came to the introduction of a WC system, this process, particularly “lesson-drawing”, was significant, since policy-makers of Canada learned from the experiences of other jurisdictions with comparable problems and institutions, including Britain, Germany, and France; and this learning process can be applied to South Korea, by referring, especially, to Japan’s experiences.

Canada's connection to Europe means that Canadian institutions are socially, politically and culturally affected by those in Britain and France; and so has been the development of WC. The Workers’ Compensation Act introduced in Britain in 1897, which replaced the old Employers Liability Act, motivated Canada, and especially Ontario, to create a new institution to deal with occupational accidents (Dee et al. 1987). The Royal Commission dispatched their

staff to Britain to research the new Act and the possibility of applying it to Canada (Marsh, 1943). Even though the Commission's report expressed a negative opinion about adopting the WC program in Canada, it was a starting point for Ontario and Quebec, and provisions in the British law were quoted in the Canadian Act (Guest, 1997).

It is evident that many South Korean social security plans originated in Japanese ones. In the case of WC, the mechanisms of the collection of premiums and the provision of benefits were quite similar to the Japanese system's (Jeong, 2008). This is not surprising because, first, the decision-makers at the time, including politicians, scholars and bureaucrats, who studied their specialties in Japan during colonization, occupied the most seats in governmental and academic organizations. In addition, many progressive intellectuals who had experience in China and the Soviet Union were purged by the regime after the Korean War. Another reason is that Korea had had few opportunities to forge relationships with Europe and North America because of traditional Korean insularity until the demise of the Chosun Dynasty, which was the regime before colonization. Even after opening its gates to the world at the beginning of colonization, Japan was the only nation to make connections with the rest of the world, so that all Western institutions were already adjusted to, and filtered through, Japan before they arrived in Korea.

## **3.2 Brief Explanation of the WC Programs in South Korea and Canada**

### **3.2.1 Coverage and Contributions**

In most countries WC is historically the first social insurance program to be developed<sup>9</sup>. The concept of WC originated in Germany; it was introduced in 1884 by Chancellor Otto Von Bismarck as a compulsory, state-run accident compensation system (Workers' Compensation Boards Association, 2012). Since its introduction in South Korea in 1964, its coverage has constantly expanded. At present all workplaces with at least one full-time worker are subject to mandatory coverage. Mandatorily-covered workplaces are supposed to be automatically subject to WC coverage to compensate injured workers, regardless of the employer's registration or lack of it. There are, though, several areas excluded from WC coverage:

- Workplaces covered by the Public Officials Pension Act or the Veterans' Pension Act;
- Workplaces covered by the Seamen Act, the Fishermen & Fishing Vessel Accident Compensation Insurance Act, or the Private School Faculty Act;
- Small size construction projects conducted by employers other than ones who do not have a professional construction licence;
- Self-employed housekeepers;
- Workplaces with less than one full-time worker, except for the foregoing workplaces or projects.

Workers' compensation premiums are basically calculated by multiplying the total estimated wages paid to all workers for the year by premium rate. For the

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<sup>9</sup> In South Korea WC was introduced in 1964, followed by The National Health Plan in 1977, The National Pension Plan in 1988, and Employment Insurance in 1995. Workers' compensation in Canada had its beginnings in the province of Ontario in 1914, and Employment Insurance in 1940; the first Canadian province to introduce near universal health coverage was Saskatchewan, in 1946, and The Canadian Pension Plan in 1966 followed.

purpose of fairness, the premium rating of each business category is determined by its occupational accident risks according to the ratio of the total amount of benefits to that of wages paid for the previous three years. As of 2011, the average of premium rates for 61 business types is 1.8 per cent of wage, ranging from 0.7 per cent in finance and insurance businesses to 36.0 per cent for coal mining. Meanwhile, in order to persuade employers to pay more attention to risk prevention, an experience rating system (merit rate) is applied to workplaces where three years have passed since the establishment of insurance relations and more than 20 employees have been hired. That business's premium rating for the next insurance year is determined by the ratio of the total amount of benefits provided to the injured to that of premiums paid over the past three years. The ratio may be raised or lowered within one half of the premium rating applicable to the business.

In some Canadian jurisdictions almost all industries are covered by WC, unless they are specifically excluded; while in some provinces, including Ontario, some industries are protected by WC according to law. The percentage of the workforce covered by WC in Canada varies; as of 2010, it ranged from 71.28 per cent in Ontario to 97.66 per cent in Newfoundland and Labrador (Workers' Compensation Boards Association, 2012). Given that Ontario was the first province to adopt WC in Canada, and it is evaluated as the best organized and most desirable model (Marsh, 1943), in this study, Ontario schemes are largely dealt with.

The Workplace Safety and Insurance Boards (WSIB) in Ontario were established based on the Workplace Safety and Insurance Act, and are responsible for no-fault workplace insurance for employers and their employees. This organization, an arm's length government agency under the Ministry of Labour, is financed only by employers' premiums, and receives no government funding. The basic characteristic of the organization is the same as that of the Korea Workers' Compensation and Welfare Service (COMWEL), in that both are semi-governmental organizations, although the administration cost of the COMWEL is covered by the Korean government's general budget.

Most businesses in Ontario that employ workers must register with the WSIB. Currently WC coverage in Ontario is applied on the basis of two separate systems. Schedule 1 includes most employers, who are obliged to contribute to the collective liability provisions, which account for about 62 per cent (3.4 million) of the Ontario workforce (Workplace Safety & Insurance Board Ontario, 2012). Schedule 2 targets the employers who are self-insured or individually liable for the cost of benefits for their workers. The list of industries for schedule 2 is considerably less (500 thousand) than for schedule 1, and comprises the following:

- Firms funded by public funds (from the federal, provincial or municipal governments, or any two of them, or all of them);
- Firms legislated by the province, but self-funded, including school boards, libraries, and so on;
- A number of other firms that are privately owned but involved in federally regulated industries, such as telephone, airline, shipping, railway and public utilities companies.

The industries that are not covered by WC can be divided into two groups. One is those specified by the Act, such as barbering, shoe-shining establishments, educational work, veterinary work, dentistry, funeral directing and embalming, the business of photography and taxidermy. The other is “those industries that are omitted by virtue of not being reflected in the inclusion list”; and this group includes financial institutions, broadcasting stations, universities and the offices of dentists, physicians and lawyers (Workplace Safety & Insurance Board Ontario, 2002, p. 3). It is estimated that in Ontario, as of 2010, approximately 1.8 million workers remained unprotected by any WC coverage (Statistics Canada, 2012; Workers' Compensation Boards Association, 2012). In addition, those who are outworkers<sup>10</sup>, volunteers or casual workers<sup>11</sup> are ineligible for WC benefits claims, even though the employers are registered with the WSIB. The issues relating to the scope of coverage will be discussed in detail later.

The formula for calculating premiums in Ontario is almost the same as the South Korean. The business types that are the basis for the premiums, however, are segmented into nine main industry groups and 156 subgroups. As of 2012 the average premium rate is 2.65 per cent of employers' earnings in Ontario, and the lowest is 0.6 per cent, while the highest is 10.18 per cent. The WSIB also operates

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<sup>10</sup> According to the Workplace Safety and Insurance Act in Ontario, “outworkers” are defined as the persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in the person’s own home, or on other premises not under the control or management of the person who gave out the articles or materials.

<sup>11</sup> The law defines “casual workers” as persons whose employment is of a casual nature, and who are employed otherwise than for the purposes of the employer’s industry.

various experience rating systems based on the amount of the premiums the employers pay and the kind of businesses.

### **3.2.2 Benefits and Rehabilitation**

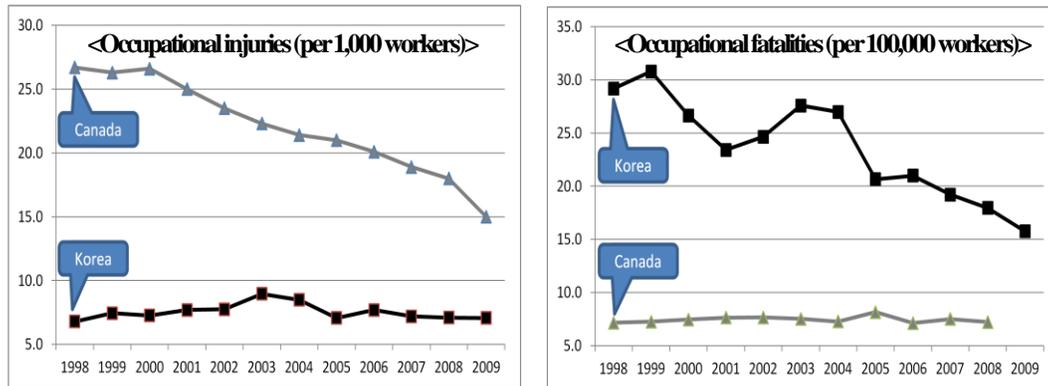
The COMWEL in South Korea provides several benefits to compensate injured workers for medical fees and income losses. Medical Care Benefits ensure that they receive care from medical service providers without paying any fees. Temporary Disability Benefits (TDBs) refer to benefits paid to an eligible worker with a temporary disability resulting from a work-related injury or disease. The eligible worker will be paid TDBs corresponding to 70 per cent of his or her daily average wages for at least four days of the time off work. Permanent Disability Benefits (PDBs) are provided to those injured workers who physically or mentally, or both, have any remaining permanent disabilities after recovery from a work-related injury or disease. The eligible worker will be paid PDBs on the basis of the daily average wages and the disability grade, of which there are 14. The survivors of a worker whose death has been caused by a work-related injury or disease are entitled to Survivors' Benefits (SBs). Also, the COMWEL operates a variety of rehabilitation programs, such as the Intensive Physical Rehabilitation Program, Socio-psychological Rehabilitation Programs and Vocational Rehabilitation Programs, to promote the return to work.

In Ontario the entitlement to health care benefits includes prescription medication, physiotherapy, chiropractic treatment, orthotics or prosthetic devices,

and medical reports. Loss of Earning (LOE) Benefits are payable to a worker who has a loss of earnings as a result of an occupational injury or disease. A full LOE is paid when a worker is unable to work, and is consists of 85 per cent of the worker's pre-injury net average earnings, while a partial LOE is paid when the worker is employed at a wage loss, and is paid at 85 per cent of the difference between the worker's pre-injury and post-injury net average earnings. Non Economic Loss (NEL) benefits are provided to a worker if the injury results in permanent impairment of his or her physical, functional or psychological capacities. After 12 continuous months of LOE benefits, the beneficiary is supposed to contribute 5 per cent of every LOE to a Loss of Retirement Income (LRI) plan, which is payable at the age of 65 and until the date of the worker's death. A spouse or dependent of a worker who died as a result of an occupational injury or illness receives Survivor Benefits which provide four types of benefits: Survivor Payments, Funeral and Transport Costs, Bereavement Counseling, and Labour market re-entry plans for surviving spouses.

For the vocational rehabilitation of injured workers, the WSIB has various programs, including work assessment, formal and academic training assistance, placement services, job search assistance and worksite or workstation modifications. Employers in a workplace where there are more than 20 workers have the responsibility to re-employ injured workers if they are medically fit to perform the essential duties of the job or other suitable works, in case the injured workers cannot work at their original ones.

Chart 3 Frequency of Work-related Injuries and Fatalities in South Korea and Canada



Source: Ministry of Employment & Labour in Korea and Workers' Compensation Boards Association, Canada

The chart above shows the ratio of occupational injuries and fatal workplace accidents in South Korea and Canada. Both countries are now on the decline in occupational injuries. The rate in Canada rose throughout the 1980s, but has been declining since 1988, falling to 15.5 per 1,000 employed Canadians in 2009 (Human Resources and Skills Development Canada, 2012). Similarly, the frequency of occupational injuries in South Korea is now decreasing, from 16.1 per 1,000 in 1991 workers to 7.1 in 2009. It is unreasonable to compare both countries directly because of the variety and scope of accidents covered by WC. For example, an occupational accident requiring medical treatment for less than four days and traffic accidents when commuting are not calculated as time loss injuries in South Korea, while in Canada they are. What is interesting, however, is that whereas the rate of injuries in South Korea is almost half the Canadian one, the fatality rate is adversely double the Canadian case. The reason is that the

South Korean industrial structure focuses on manufacturing and construction, which are more hazardous than other industries, with severe labour intensity and scarcity of occupational safety and health systems. More details about this will be given in the next section.

### **3.3 Recent Reforms of WC**

Activities relating to WC insurance mainly consist of collecting premiums from the employers and providing compensation to the injured. In this sense, the history of WC reforms has been a power struggle between two major stakeholders: employers and injured workers. Since employers are obliged to be the insurers to compensate not themselves but their workers, a sharp conflict of interest always exists. Employers blame some injured workers for abuse of employer-funded insurance programs, eventually causing an increase in premium rates. They also insist that the government should cut benefit levels, decrease the scope of coverage, and implement a no-pay waiting period (Business group wants Workers Compensation Board reforms, 1995). In contrast, the labour unions clarified their position that they are against additional reductions in employer premium rates, which will ultimately accompany a further curtailment of WC benefits (United Steel Workers, 2006).

Since Mr. William Meredith, the head of the Royal Commission to adopt WC in Canada, submitted the report proposing the replacement of litigation with social insurance for occupational accidents, the coverage scope and level of

benefits of WC constantly expanded until the early 1990s (Gunderson & Hyatt, 2000a). The amended Act (Bill 85 and Bill 101) in 1985, for example, changed the method of calculating benefits from 75 per cent to 90 per cent of net average earnings and the level of permanent disability supplementary pensions up to the amount of the Old Age Security pension.

With the welfare state retrenchment, however, the focus of WC policies shifted from the guarantee of standards of life for the injured workers to the financial soundness of the WC fund, and an alleviation of employers' premium rates for the sake of competitiveness. In the mid 1990s the WC systems of most provinces in Canada underwent review and reforms, with an emphasis on controlling costs by enhancement of prevention, fraud detection and rehabilitation (Jennissen et al. 1998). In the report for WC reform, *New Direction for Workers' Compensation Reform*, submitted to the Ontario provincial government in 1996, the author, Cam Jackson, suggested the importance of worker and employer self-reliance for rehabilitation and for short duration claims, and of less intervention of WSIB in those processes "in order to remove significant barriers to job creation and economic competitiveness by keeping its commitment to lower WSIB assessment rates" (Jackson, 1996, p. i). Moreover, in a transcript of the Ontario provincial standing committee on resources development, it is clearly stated that the aim of the WC Act amendment is to secure the financial stability of the compensation system for injured workers.

In fact, this business-friendly direction of WC reform is a tendency worldwide. One international labour union describes it as a

[m]ean-spirited assault against injured workers that has swept the country under the guise of “reform” over the past decade. Benefit cuts, restrictions in coverage, medical care, and the effort to stigmatize injured workers as frauds, cheats and malingerers - just to name a few of the elements of this campaign - have taken their toll [...] (Lawrence, 1999, pp. 45-46)

The direction of South Korean WC reform is also deeply related to the political-economic situation, which is similar to the Canadian experience. As industrialization advanced, the scope of coverage, which used to be restricted to workplaces hiring more than 500 workers, was in 1982 expanded to all companies where there are more than 10 workers, more than five workers in 1988, and at least one worker in 2000. In addition, the survivor benefit was raised by 30 per cent, and the percentage of wage replacement by the temporary disability benefit rose from 60 per cent of pre-injury net income to 70 per cent in 1989 (Kim & Fishback, 1999). Following the economic crisis in the early 2000s, however, COMWEL announced major reform plans; one of them was the obligatory submission of a medical treatment plan that contains information on the medical progress of injured workers, an expected treatment period, and treatment methods. In accordance with this regulation, the medical institutions who decide whether it is necessary to extend medical care for the injured workers need to ask for approval from COMWEL.

In the following section I discuss two major reform projects that are representative of the recent reforms in both countries, and are substantially

influential for both employers and injured workers. The details of the experiential premium rate and vocational rehabilitation (return-to-work) programs are introduced in this section, and the impact of those programs on the workplace parties will be explored in the next.

### **3.3.1 The Experience Rating System**

The superficial objective of the experience rating system is a financial incentive for safer workplaces, and the system allows the premiums of WC to be shared fairly among the employers (Workers Compensation Board of Prince Edward Islands, 2011). For this reason, most jurisdictions have adopted this claim-based premium calculation system, not only for WC, but also for other social insurance programs. The WSIB also implements a variety of the experience rating system. As the chart below shows, the amount the employer should contribute depends on how many workers claim, not how many are injured, and how much they get compensated. Prior to major reforms in the 1990s, this financial incentive system was elective in industry, but it became mandatory for most employers. In Ontario, almost 80 per cent of employers are subscribed to this financial incentive system (Kralj, 2000).

Table 2 Experience Rating System in Ontario

Year	Title	Eligibility	Surcharge/ Rebate Spread
1984	CAD-7	Construction employers paying more than \$25,000	Refund/surcharge varies with rating factor.

annual premium.			
1984	New Experimental Experience Rating (NEER)	Non construction employers paying more than \$25,000 annual premium.	Refund/surcharge varies with rating factor.
1989	Work well Program	All employers.	Surcharge only; 10-75% of assessment to a maximum of \$500,000.
1997	Safe Communities Incentive Program (SCIP)	Employers paying up to \$90,000 in annual WCB premiums (optional).	Refund only; 75% of cost savings realized.
1998	Merit Adjusted Premium (MAP) Program	Employers paying premiums of \$1,000 to \$25,000 annually.	Maximum premium rebate (discount) of 10%. Maximum premium increase of 50%.
2007	Safety Groups Program	All employers.	Refund only; max. of 6% of a Group's premium distributed among members.

Source: Workers Compensation Boards AssociationSource: Workers' Compensation Boards Association

The South Korean system is much simpler than the Canadian in terms of quantity and quality. Only about 5 per cent of employers are experience rated, and numbers of workers in the workplace are considered in the application of the system. It was initially imposed on mining and manufacturing industries with more than 500 workers, raising or lowering within 30 per cent of the original premium. In the mid 1990s application was expanded to all workplaces employing more than 30 workers within the extent of a modification of 40 per cent. Today, a business owner employing 20 or more could pay an adjusted

premium at a maximum of 50 per cent as per the number of his or her workers' WC benefit claims.

Breaking down the application of the experience rating system in South Korea by category of industry, most workplaces - in particular, finance, utility supply, and other service industries - receive rebates from the government. On the contrary, industries such as manufacturing and construction endure a financial penalty because of their high occupational accidents rates. In effect, the expansion of the experience rating system in South Korea and Canada contributes to the budget deficit in WC funds and the reduction of WC benefits. Employers' concerns about high premium rates mean this financial incentive policy could, eventually, destroy the principle of "social" insurance. In the next section, how this system marginalizes injured workers is discussed.

Table 3 Application of Experience Rating System in South Korea by Industry

Category of Industries	% of firms applied by the system	Surcharge	Rebate	No Change
Total	4.4%	11.5%	86.7%	1.8%
Finance & Insurance	15.1%	6.5%	92.8%	0.7%
Mining	7.2%	22.4%	75.0%	2.6%
Manufacturing	8.5%	12.3%	85.6%	2.0%
Electricity, gas & water supply	28.1%	9.2%	88.9%	1.9%
Construction	2.7%	27.1%	68.1%	4.8%
Storage & transportation	10.9%	15.6%	82.4%	2.0%
Forestry	1.7%	24.8%	64.2%	11.0%
Fisheries	0.3%	0.0%	100.0%	0.0%

Agriculture	4.8%	10.4%	86.5%	3.1%
other services	3.0%	8.8%	90.1%	1.2%

Source: The COMWEL annual report (As of 2011)

### 3.3.2 Vocational Rehabilitation and Case Management

Internationally, in terms of social welfare provisions, “active” labour market policies have replaced conventional notions about social welfare (International Labor Organization, 2011). Social welfare programs have become conditional upon job seeking, and recipients of welfare benefits are supposed to show their eagerness to improve their employability, with the goal of an early return to work (Lightman et al. 2010). In the context of Canadian social welfare, since the Canadian Health and Social Transfer Act of 1995, the main goals of which are cutting back federal social spending and transferring financial pressure to the provincial governments, the latter, now equipped with more autonomy and discretion, began to introduce “work-first” programs on the basis of the principle of obligatory participation and financial disadvantages for non-participants (Lightman et al. 2010).

The emphasis in WC on vocational rehabilitation, as explained, is consistent with the change in social welfare policies. As also mentioned earlier, early return to employment became a primary objective of WC in both countries. In 1996 the Ontario Conservative Provincial government criticized previous rehabilitation programs for poor cost efficiency and the tendency of injured workers to stay on benefits rather than return to work (Jackson, 1996). Premier

Mike Harris therefore suggested new return-to-work and labour market re-entry programs that were founded on the self-reliance of workers and on employers who were encouraged to co-operate with each other for “mutual benefits” (Jackson, 1996). The major features of the new programs are as follows (Workplace Safety and Insurance Board, Ontario, 2011, p. 10):

- Instead of WSIB providing vocational rehabilitation programs, a shift to self-reliance by workers and employers, after which WSIB can “arrange for Labour Market Re-entry”;
- Workers and employers are required to co-operate to help workers return to work;
- The WSIB is only to be involved where disputes arose;
- In certain circumstances, the WSIB may provide workers with labour market re-entry (LMR) assessments. Based on that, the WSIB will determine whether a worker requires an LMR plan to assist the worker in re-entering the workforce;
- If a worker requires an LMR plan, the Board arranges preparation of a plan for the worker’s re-entry into the workforce. Provision of LMR services has been outsourced to independent third party providers’
- A shift in focus at LMR from the employment of workers to having workers “market-ready”.

Additionally, in order to improve the return-to-work programs the level of compensation was decreased, in order to push the injured workers out of the social safety net. In the early 1980s, the late era of the Canadian Keynesian welfare state, the wage replacement rate by WC benefits was increased from 75 per cent to 90 per cent, on the premise that “injured workers have a right to a post-accident standard of living fully equivalent to the pre-accident standard of living” (Storey, 2006, p. 73). The Conservative provincial government, however, dropped the wage replacement rate to 85 per cent, in the 1997 reform under the conviction

that any injured workers should not receive more compensation than workers are supposed to get from working.

Case management was initiated in the United States as one of the measures to manage limited resources more efficiently (Park, 2007); in the field of WC, a major objective of case management is to promote workers' early return to work (Brines, Salazar, Graham, & Pergola, 1999). The WSIB has launched a Service Delivery Model, which stresses the role of case management to help injured workers do that. In this model, the case managers are expected to concentrate on the opportunities of and obstacles to returning to work, and determine ongoing benefits to be paid to the worker (Workplace Safety & Insurance Board Ontario, 2012).

The standardized case management approach is also widely used in South Korea to increase administrative efficiency, and the role of the case manager is similar in both countries. Many authors have pointed out that one objective of case management is to efficiently manage the limited resources and promote early return to work in the WC field (Brines et al. 1999; Martin, Phelps, & Katbamna, 2004). The nominal focus on case management is to ensure that workers get the personal, social and emotional support they need to recover from a workplace injury, and return to work in the most cost-effective manner (DiBenedetto, 2003). The role of the case manager is described in detail below (Park, 2007):

- Inform the injured workers of all available benefits, and provide regular support;
- Determine eligibility for benefits and support;
- Ensure that WC benefits are provided to the injured workers on a timely

basis;

- Obtain medical information as it relates to treatment needs and working capability;
- Help determine suitable return to work options with the worker's employer.

The COMWEL has recently changed the name of front-line workers who are responsible for the compensation part from “case manager” to “job coordinator”. The renaming reflects the limited role of the COMWEL staff as, simply, job information providers. It seems obvious that the efforts toward empowerment and advocacy for injured workers have become far less prioritized in South Korea.

In brief, in the early twentieth century Canada's social and political environmental compelled it to adopt a social institution to deal with accidents arising out of, or in the course of, work. The evolution of industrial structures included new jobs of such a nature as to lead to an increase in occupational accidents. The shift of court rulings in favour of workers and precedent WC legislation in Europe further pushed workplace parties to compromise their rights and agree to new social insurance programs. In contrast with the Western experience of the introduction of social policies, South Korea presents features unique among developmental welfare states. Workers' compensation was introduced there also for the purposes of economic growth, political legitimacy, and social stability. Despite these obvious differences in their historical backgrounds, there are significant similarities in the current situation of WC in the two countries. In the context of neo-liberalism, they stress financial soundness through expansion of managerial methods, such as case management and

experience rating systems. Early-return-to-work programs are increasingly emphasized to encourage injured workers to get involved in economic activities, in accordance with the welfare-to-work principle. In the following section I discuss, from the perspectives of the notions of citizenship and the welfare state, how the recent WC reforms in both countries affect injured workers.

## **4. Analyzing WC from the Perspectives of Citizenship and the Welfare State**

### **4.1 Development of WC in Different Contexts**

As Stritch (2005) delineated, the advent of WC in most countries, including Canada, was a spontaneous social response to changed circumstances that demanded an institution to deal with a byproduct of industrialization. Influenced externally by European countries that had already adopted WC, and internally by courts' costly rulings in favour of both labour market parties, Canadian employers and workers compromised by giving up their legal rights.

In the case of South Korea, on the other hand, the establishment of the Workers' Compensation Act was the contrivance of a dictatorship that wanted to address the social problems attendant on government-led economic growth without paying exorbitantly. Public attention to the social welfare system was minimal because their poverty and ignorance of the potential for human rights and equality rendered them oblivious. In this section the development of WC in Canada and South Korea is examined from the perspective of citizenship and the welfare state.

#### **4.1.1 WC and Citizenship in Canada**

The features of the development of WC in Canada represent the history of the welfare state. The period between Confederation, in 1867, and the Second World War was a transitional phase in terms of the development of the Canadian welfare

state, in the sense that industrialization and its related social problems encouraged the sense of responsibility for people's well-being, and several important pieces of legislation, including the Workmen's Compensation Act in Ontario in 1914, were passed then (Hick, 2004). During this period, too, the notion of social citizenship advanced, judging by the number of social movements for labour reform, child welfare, and women's rights, mounting attention to social democracy, and the emergence of labour-friendly political parties, such as the Co-operative Commonwealth Federation (Chappell, 2010).

In fact, the theory of citizenship and the origin of WC are profoundly interrelated in terms of socio-economic circumstances and social institutions contributing to those newly emerged social concepts. According to Marshall (1992), civil rights, the first of the three components of citizenship to develop, was an instrument for employees to increase their social and economic positions by claiming their entitlement to certain rights as full members of society; and basic civil rights, such as the right to work, stemmed from freedom of choice of occupation, which used to be subject to feudal regulations. That is to say, as industrialization advanced, working people acquired class consciousness, and had interests different from and, sometimes, in conflict with those of employers (Hyatt & Law, 2000). In the book *Citizenship and Social Class, Forty Years On*, Bottomore (1992) pointed out:

The Extension of political rights in the nineteenth and twentieth century and of social rights in the twentieth was accomplished largely by the rapidly growing working class movement, aided by middle

class reformers and in the case of social rights facilitated by the consequences of two world wars (p. 56).

In Canada and, in fact, in most industrialized countries the recognition of workers as a separate class was a significant motivation for the introduction of WC. Forced to work in unpleasant and dangerous conditions, workers organized unions to represent their interests collectively, and formed self-insurance associations (Hyatt & Law, 2000). They held demonstrations to draw public attention and to pressure governments, resulting, in 1914, in the adoption of Canada's first comprehensive and mandatory social insurance scheme for injured workers in Ontario, which at the time was considered, across North America, very advanced legislation (Moscovitch & Drover, 1987). Both the idea of workers' rights and WC are products of industrialization.

Another significant commonality between the emergence of the idea of workers' rights and WC was the role of the courts. Their rulings decisively encouraged new principles, because the Common Law was flexible enough for the judges to make different decisions, "eventually installing the heresy of the past and the orthodoxy of the present" (Marshall, 1992, p. 11). The changed interpretation of the law, which resulted from judges' awareness of human rights and the need for equality, greatly influenced judgments on accidents arising out of or in the course of work, in favour of the plaintiffs -- injured workers (Stritch, 2005). The court had begun to ignore employers' conventional defence measures, such as voluntary assumption of risk, fellow servant rule, and contributory

negligence (Hick, 2004). Consequently, this shift forced business groups to agree to a compromise with their counterparts (Berkowitz & Berkowitz, 1984)

#### **4.1.2 WC for Economic Growth and Political Purpose in South Korea**

Given the undemocratic government and premature capitalism when WC was introduced in South Korea, attempting to explain the development of WC in light of the citizenship framework in South Korea would be an irrelevant exercise. The developmental welfare regime in South Korea can be seen as an alternative to WC development that occurs as the first social security program to deal with the sacrifice of government-led economic development for maintaining political legitimacy.

Where the Poor Law was, at the time, the representative feudal social policy, social insurance is a typically capitalistic one, inasmuch as the primary objective of social insurance is to address social risks - such as occupational accidents, unemployment, and poverty after retirement - that did not exist in feudalism; and the major target of the program financed by the tripartite contributors - capitalists, workers and the state - is the working class (Won, 2005). In this respect it can be argued that social insurance programs, as one part of the social welfare system, are the most capitalist social welfare policies.

This historical relevance can be applied to the advent of WC in South Korea. In 1964, following the demise of colonization, and then war, in the 1950s, South Korean capitalism was in its embryonic stage when WC was introduced.

This connection between WC and capitalism was, in fact, also observed in Europe in the late 1880s and in North America in the early 1910s. Unlike the Western experiences, however, in which the emergence of WC was the result of capital accumulation through industrialization, WC in South Korea was primarily a result of political decision making. The destruction of the industrial infrastructure in the war and the massive influx of migrants from North Korea and other countries, made the employment issue the most serious social problem of that time (Ministry of Employment and Labor of Korea, 2004). Nevertheless, the WC Act was established as the first social security program, because the regimes believed that WC involved less loss of work incentive that usually resulted from social welfare, and that WC, which is basically operated by employers' contributions, effectively prevent poverty, with fewer administrative costs for and financial burdens on the government (Woo, 2007). Most of all, the new military government also wanted to strengthen the state's administrative interventions in labour-management relations for rapid economic growth through the adoption of the WC system.

In this period a series of social insurance programs, such as the Civil Service pension in 1960, the Military Personnel Pension in 1962, and WC in 1964, were introduced. Along with the introduction of WC for the workers in big companies employing more than 500 employees, the newly established regime enacted the pension plan for the government officials and soldiers in a hurry, while the pension for citizens was introduced about 30 years later, because the

beneficiaries of those programs were considered strategic and significant for economic growth and political stability (Kwon H. J., 2009).

All of these features found in the development of WC in South Korea - the subordination of social policies for economic purposes, fewer interventions from the government in social welfare, and the enactment of social service legislations for political legitimacy - are representative and typical features of developmental welfare states.

#### **4.2 WC Reform and Citizenship**

Considering how “the historic compromise” between employers and workers developed into social insurance programs, WC is a representative example of social policy established on the foundation of social rights. Workers achieved protective mechanisms “through a reciprocal contribution, the sacrifice of workers' civil rights to tort damages; and by accepting a compromise, workers demonstrated responsibility for society and shrewdly cut a better deal for themselves at the same time” (McCluskey, 2002, p. 848). That is to say, WC as a social right was obtained in exchange for the civic right to sue employers. Notwithstanding, the actualization of the social rights of injured workers has encountered challenges, and has hardly ever been accomplished. Many work-related injuries and diseases are precluded, and the level of WC benefits is merely cost-compensatory, rather than a meaningful compensation for income loss (McCluskey, 2002). In this section I examine the recent reforms conducted in

both countries: in particular, the experience rating system in premium collection, and the return-to-work programs in compensation. As well, how the social rights of injured workers are ignored in the context of neo-liberalism is discussed.

#### **4.2.1 Experience Rating System and the Principle of Social Insurance**

The rationale for the government to expand the experience rating system is to motivate employers to build safer workplace environments and to guarantee contribution fairness by refunding or surcharging them based on their history of accidents. This financial incentive policy, however, leads to serious side effects that have eroded the intrinsic objectives of WC in both South Korea and Canada.

First, many empirical studies indicate that this merit system motivates employers to under-report occupational accidents (Bruse, 2008; Kralj, 2000; MacEachen, 2000; Quinlan & Mayhew, 1999). The experience rating system gives the manager motivation to suppress or dispute the WC benefits claims of injured workers in order to maintain a “good record”. Instead of making an effort to improve occupational health and safety, employers indulge in “claims management” by monitoring, controlling claims and, even, appealing against the decisions by WCBs to reduce assessment rates or to receive rebates from the government (Kralj, 2000; MacEachen, 2000). A Canadian newspaper reported in an article, titled “*Working Wounded*”, that “at least 11,000 worker injuries were downplayed or improperly handled over a seven-year period, including 3,000 fractures, dislocations, bad burns and other injuries, even amputations, that

companies reported as resulting in not even one day off work”; the news report commented that this attempt to thwart legitimate claims is mainly caused by the WSIB’s incentive plan and the employers’ greed (Bruse, 2008).

In particular, given the unequal power relationship between employer and employee, workers in precarious positions, such as non-regular workers, migrant workers, and non-unionized workers, are more vulnerable to this under-reporting. The relevant evidence in Australia suggests that under-reporting was relatively high among those “who were unskilled workers, occupationally mobile, self-employed, or geographically isolated” (Quinlan & Mayhew, 1999, p. 494). In addition, because the WC benefits paid to temporary workers sent by employment agencies are calculated on the basis of the agency’s premium rate, companies tend to hire more temporary workers in order to maintain clean safety records, while the employment agencies face a surcharge on WC premiums and penalties (Welsh, 2008).

One of the major topics of recent reforms is the financial stability of WC funds (Jackson, 1996). For this reason, the eligibility of WC for workers tightened, and the levels of benefits were reduced. The expansion of the experience rating system, however, is in conflict with the government’s methods of maintaining financial stability. According to the Ontario Network of Injured Workers Group, combined with a declining premium rate, the experience rating system has put approximately one billion dollars per year back into the contributors’ pockets (Schwartz, 2009). Similarly, in South Korea, almost 85 per cent of employers who

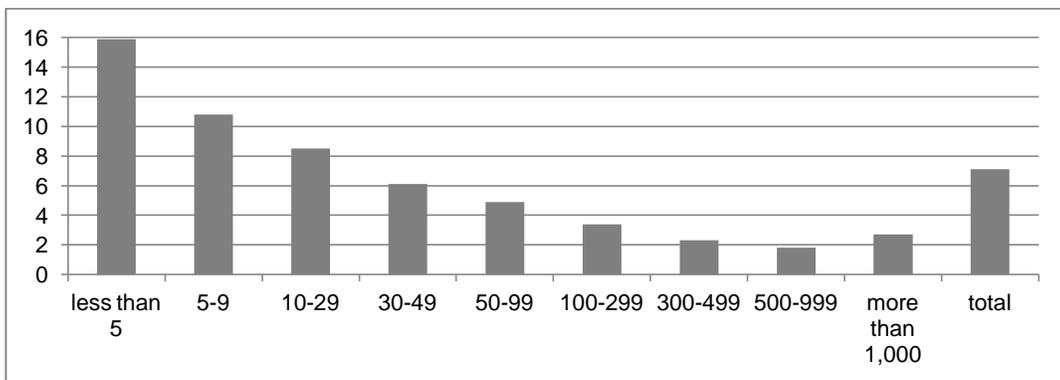
are in this merit system receive rebates from the COMWEL. The Ontario provincial government themselves admitted that this financial incentive system is one of the main reasons for a financial deficit in WC funds (Jackson, 1996). This imbalance puts huge pressures on unfunded liabilities; the assets in the WC insurance fund are substantially less than what is needed to satisfy the estimated lifetime costs of all claims currently in the system (Jackson, 1996; Workers Compensation Boards Association, 2007). The compensation that is supposed to flow from employers to injured workers now goes to employers' pockets from workers'.

The last and most important effect of the experience rating system is that it destroys the social insurance principle: namely, a social risk pooling mechanism. While each of the social security programs has unique features and a unique background, they have evolved on the foundation of the shared assumption that social risks were not results of individual failure, but inherent in industrial societies, so that they should be addressed with universal social programs, and not in categorical or selective ways (Jennissen et al. 1998). The financial incentive system, which depends on individual workers' and firms' acceptance of responsibility, is, however, in direct opposition to collective pooling of social risks.

As the chart below shows, the smaller the workplace, the more likely are occupational injuries. The insurance program that functions "socially" contributes to the distribution of social risk between huge firms and small-to- medium-size

ones, between highly dangerous jobs and relatively safe ones, between manual labour industries and high tech ones, and between workers who have better working conditions and those who do not. The experience rating system, on the other hand, adopts the private insurance mechanism; that is, the principle of “according to their contribution”, not “according to their needs” (Won, 2005): it can thus erode the base of social insurance inasmuch as it can provide neo-liberalists with a reason to privatize WC.

Chart 4 Frequency of Occupational Injuries by Size of Workplace in South Korea



Source: Ministry of Employment and Labour in Korea  
Unit: per 1,000 workers (as of 2008)

#### 4.2.2 Return-to-Work Program and Marginalized Injured Workers

One key term in explaining the implementation of the ideology of neo-liberalism in welfare policy is “workfare”, which refers to welfare service recipients being required to take part in employment activities in order to receive their welfare benefits (Won, 2005). As explained earlier, both South Korea and Canada have shifted their policy focus from cash benefits to vocational rehabilitation when it

comes to WC. In Canada, employers are obliged to re-employ injured workers, and to adjust the working environment to accommodate them. In cases when the workplace where the accident happened is closed, the WCBs intervene to arrange other suitable jobs, or to provide job training to the injured workers (Workplace Safety & Insurance Board Ontario, 2012). The COMWEL in South Korea also provides injured workers with various programs, such as job placement and training programs and business start-up services.

Contrary to the expectations of the WCBs, however, injured workers often face challenges in re-entering the labour market: indeed, about 56 per cent of injured workers in South Korea have to leave it (Jeong, 2008). Statistics, further, show that the higher the disability grade, the lower the return-to-work ratio (Lee S. R., 2008). The Canadian injured workers' experience is not that much different. Research conducted by the Ontario Network of Injured Workers (ONIWIG) indicates that over 50 per cent of people who are permanently disabled due to occupational injuries are chronically unemployed, and about 70 per cent are living below the Low Income Cut-Off (Schwartz, 2009). Moreover, because of the demographic changes in the labour market, characterized by an increase in the number of non-regular workers and of female workers in employment, and a mounting portion of small-to-medium-sized businesses, it will become more difficult for injured workers to find suitable jobs (Gunderson, 2000; Storey, 2009).

Premature-return-to-work schemes push injured workers to resort to other social assistance programs. Research cross-matching WC and records of hospital

and welfare recipients in British Columbia, Canada revealed that 23 per cent of WC beneficiaries became clients of social assistance programs, and it was found that they were the third largest group of claimants after single mothers and the unemployed (Quinlan & Mayhew, 1999). The study by the civic group for injured workers in Ontario also shows that over 40 per cent of injured workers suffering from permanent disability depend on the Ontario Disability Support Program or social assistance (Schwartz, 2009). Although there is little empirical research on the South Korean experience, the rate of reliance on other sources of support should, presumably, be higher in South Korea than Canada, given the lower wage replacement ratio by WC benefits in South Korea (70 per cent) than in Canada (85 per cent), and incomplete coverage of hospital bills by WC medical care.

Although the WCBs appear to succeed in saving expenditures through the early return-to-work programs, it is merely a shift from one social service organization to another: such as from WC to Employment Insurance, the National Pension Plan, the Health Insurance Plan and the Public Assistance Program (Deweese, 2000). Cost-shifting can, however, cause social conflicts inasmuch as the social compensations for injured workers, for which employers are supposed to be liable, are transferred to taxpayers, who contribute to the public assistance programs; and this shift could lead to the public paying additional taxes. In effect, the cost-shifting issue is not that important when all social welfare programs are expanding (Gunderson, 2000). It becomes more dominant, however, not only for

WCBs, but also for most social service providers, since budgets are tight, and agencies are under pressure to reduce costs (Gunderson & Hyatt, 2000b).

In addition, the acceleration of early return-to-work programs undermines the social rights of injured workers. Although it is important to strike a balance between the two elements of citizenship - rights and duties - on social policies, the fulfillment of obligations, such as paying taxes and involvement in economic activities, has been emphasized as the condition for eligibility for rights (Lightman et al. 2010). In this respect, the promotion of early return-to-work programs undermines attention to rights, and focuses instead on obligations and contributions, which is a neo-liberal value with respect to citizenship. Neo-liberal ideology tries not just to eliminate social rights, but to reconceptualize the notion of citizenship at large, by making a market structure a foundation of citizenship (Plant, 2003).

In other words, from neo-liberal viewpoints, participation in labour markets is a basic obligation for an “eligible full citizen”, and contribution to society through work is a prerequisite for society members to access their social rights; otherwise, they are stigmatized as “undeserving or subordinate citizens: those who are deemed inadequate to assume the responsibilities of freedom because of their incapacity or incivility” (McCluskey, 2002, p. 789). Combined with the emphasis on workers’ “moral hazards”, including social insurance abuse and fraud, therefore, the encouragement of active vocational rehabilitation programs is a manifestation of a neo-liberal distorted assumption about the nature

of citizenship, inasmuch as neo-liberalism asserts that the injured worker who does not undertake vocational training to improve their employability skills and, accordingly, does not have the capacity to take part in the labour market is deprived of their entitlement to benefit from their social rights as a full citizen (McCluskey, 2002).

### **4.3 WC in the Context of Neo-liberal Globalization**

Essentially, WC is an institution to deal with a social risk derived from labour processes in workplaces. Workers' compensation is thus directly influenced by transitions of labour markets and changes of industrial structures. As explained earlier, globalization led to a change in the allocation of manpower and manufacturing facilities, internationally and domestically as well. In advanced industrial countries, service industries that employ large numbers of non-regular workers predominate, since their companies' dangerous facilities moved to the South. Meanwhile, most countries in South America, Africa and Asia, to which the “risk” is transferred, push their labour forces to work on construction or manufacturing sites without an adequate social safety net (George & Wilding, 2002).

In this section I discuss how workers are marginalized, in both the North and the South, in the context of neo-liberal globalization. The last part is devoted to answering the questions of why and how the notion of “global citizenship” should be adopted to protect marginalized workers in the context of WC.

#### **4.3.1 Reduced Role of WC in Developed Countries**

Occupational injuries in North America and Europe have recently declined. In Canada, as of 2008, the time-loss occupational injury rate was 15 per 1,000, while two decades ago it was 45.4 (Gills & Logan, 2010). Experts attribute the decrease to industrial structure changes, including technological advances in production methods, resulting in less exposure to physical hazards, improvement in occupational health and safety regulations, and employers' and workers' increasing awareness of working conditions (Breslin, Tompa, Mustard, & Zhao, 2007). Are occupational injuries, however, really decreasing in developed countries due to structural changes in industries and labour markets? Are no workers precluded from or and marginalized in the official statistics?

First, many workers have fallen through the social safety net and cannot even claim WC benefits. The increasing globalization of the international trade of labour and capital has contributed to a shift in the labour market characterized by “a small core of regular employees and the adoption of non-standard work arrangement such as temporary and part-time work and contracting out” (Shainblum et al. 2000, p. 72). The Workplace Safety and Insurance Act in Ontario specifies three groups of individuals officially excluded from WC coverage: a) volunteer workers, b) outworkers and c) and casual workers<sup>12</sup>. This non-conventional employment contract makes it ambiguous as to whether workers

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<sup>12</sup> For the definition of those workers, see page 45.

are employees or contractors (Quinlan & Mayhew, 1999). Many firms take advantage of this grey area to increase their competitiveness in international markets by contracting out their tasks to other, usually small companies. The seriousness of this problem has been noted:

Under present arrangements, the trend towards “contracting out” of specialized tasks to small business will result in an increasing proportion of the workforce being excluded from compulsory workers’ compensation coverage [...] (Industry Commission in Australian Government, 1994, p. 93)

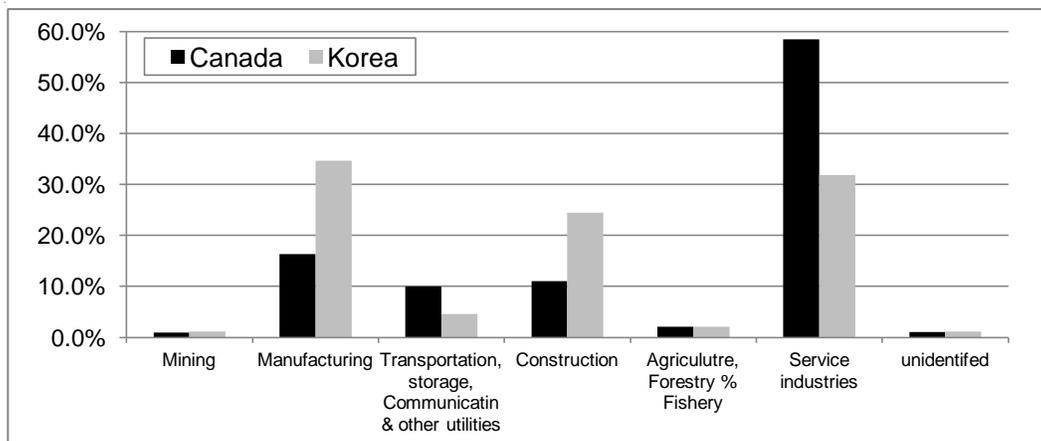
The problem of distinguishing between contracts of employment and contracts between independent firms will likely become more complex and controversial as the number of people in non-traditional work relationships and other forms of contracting for services emerge [...] (Workers' Compensation Board of British Columbia, 1997, p. 20)

Concisely, workers in precarious positions are excluded from WC explicitly in the cause of efficiency and competitiveness, as well as implicitly by their insecure employment status.

The second reasonable origin of the decline in occupational injuries rates is related to WC’s coverage erosion. Neo-liberal globalization has brought about a division of international industrial structures that has resulted in disproportionate employment growth in the service industry sector relative to traditional manufacturing in developed countries (Breslin et al. 2007). Contrary to the general assumption that the service industry is less hazardous, a number of occupational accidents (for instance, almost 60 per cent of accidents in Canada) happen in the service industry category, even though fatality rates are lower than in manufacturing and construction (Workers' Compensation Boards Association,

2012). The WC coverage, however, particularly in the service industry sector, has eroded. In the case of Ontario, the number of workers covered by WC has shrunk from 80 percent in the 1980s to 70 per cent in 2010, and it is expected that a further 5~10 per cent will be precluded from protection (Gunderson, 2000; Workers' Compensation Boards Association, 2012): while obligatory covered industries have either become extinct or moved to the South, the practice of defining coverage by including, rather than excluding the industrial category has excluded newly emerged industries, such as information technology, finance-related institutions, and various types of service industries (Workplace Safety & Insurance Board Ontario, 2002). This coverage erosion may undermine the institution itself, not only in the sense that increasing proportions of businesses and workers are left out of the social safety net, but also because it can impose financial pressures on businesses that remain in risk-pooling systems.

Chart 5 Distribution of Occupational Injuries by Industry Category in South Korea and Canada (As of 2009)



Source: Workers' Compensation Boards Association and Ministry of Employment and Labour of Korea

Note: Service industries refers to wholesale and trade, finance, insurance, real estate operators, business services, government services, educational services, health and social services and accommodation, food and beverage services

Last, new types of diseases, along with the transition of working environments, are not yet recognized as occupational ones. The emergence of unprecedented diseases is actually profoundly associated with the reshaping of industrial structures. Technological innovations have led to the replacement of traditional artisans and tradesmen with less-skilled workers performing repetitive simple tasks; the physical hazards of workers have become fraught with psychological pressures and musculoskeletal injuries (Storey, 2009). In spite of skyrocketing stress and ergonomics-related WC claims, employers and governments tend to ascribe causation to factors outside the workplace. They try to find personal disease factors, such as micro-organisms or individual life styles, and ignore the significant roles of working conditions and job factors (Shainblum et al. 2000).

In conclusion, given the broad preclusion of workers and businesses, and the severe narrowing of the criteria for occupational injuries and diseases, industrialized society did not, as the statistics seemed superficially to show, create injury free workplaces; rather, governments now simply hide injured workers, and thus render the problem invisible.

#### **4.3.2 Neglected Injured Workers in Developing Countries**

Most major manufacturing firms possess some industrial facilities abroad, and the products of transnational corporations (TNCs) are estimated to reach 20-30 per

cent of the world's output (George & Wilding, 2002). The reason for TNCs' investment is the procuring of natural resources and domestic markets and, most of all, of cheap labour by eluding the strict labour-related regulations of their homeland (Quinlan & Sheldon, 2011).

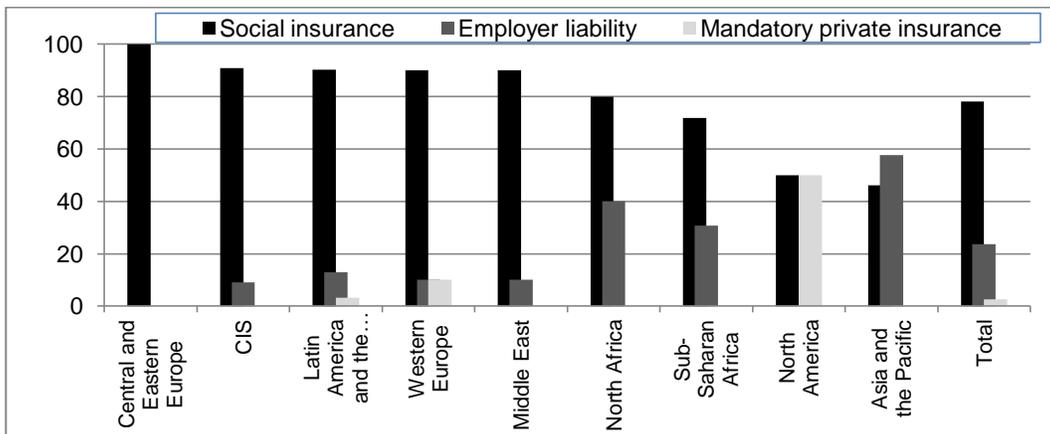
The major destinations in the TNCs' relocations of plants are Asia, South America and Africa, where governments attract them with lower production costs. South Korea, in fact, is now in a transitional position. It is technology-intensive industries that lead the economy, and the emerging South Korean TNCs themselves relocate their labour-intensive businesses among their Asian neighbours.

In the Asia-Pacific region WCs have been implemented since the mid 1990s, and in many countries it was the first social security scheme (International Labor Organization, 2011). It seems evident, however, that the institutions cannot cope with the mushrooming injured workers, and do not function as social safety nets well enough to prevent them falling into poverty, for three reasons.

First, many countries do not establish the WC as a social insurance policy, and instead rely on employers' liability as proven through lawsuits. The chart below explicates types of occupational injury scheme by region. While social insurance schemes are predominant in Europe and North America, except the United States, many countries in the South, 40 per cent in North Africa, 30 per cent in Sub-Saharan Africa, and 58 per cent in the Asia and the Pacific region, are addressing the needs of injured workers through employers' liability. In other

words, in order to be compensated, the workers have to take the case to the court, as did their Western counterparts over a century ago. Given the length and cost of lawsuits and the insufficiency of the legal support for them, however, it is difficult for the injured workers to prove their employers' tort or negligence in the accidents.

Chart 6 Types of schemes providing protection in cases of occupational injury



Source: Editing the original chart from The World Social Security Report 2010/11; Providing coverage in times of crisis and beyond (International Labour Organization, 2011)  
 Note: CIS stands for Commonwealth of Independent States, referring to the regional organization whose participating countries are former Soviet Republics

Second, even in the countries that are equipped with social insurance, a majority of workers are precluded from protection by the political-economic situation. An estimate shows that in the South only about 30 per cent of the working-age population is covered by any type of the abovementioned schemes, and the figure drops to 26 per cent in Asia and the Pacific region (International Labor Organization, 2011). The majority of workers in those regions are still involved in informal economies, which are not monitored by governments, and the sector thus usually occupies a blind spot when it comes to registration, tax

payment, conditions of employment, and operating licences (Becker, 2004). At a United Nations workshop Guerrero (2007) said that the proportion of employment in the informal sector in Asia and the Pacific ranges from 56 per cent in India, to 73 per cent in Nepal.

Finally, the level of WC benefits is not enough to keep injured workers from falling into poverty. Workers' compensation is mostly compulsory for workers in a formal economy. The average replacement rate of WC benefits to pre-injury wages in Asia and the Pacific region, however, stands at 26 per cent, ranging from 9 per cent in Thailand to 45 per cent in China<sup>13</sup> (International Labor Organization, 2011). Attempts by governments to reduce labour costs and, thereby, attract foreign direct investment and justify the hope of TNCs of maintaining profits, mean that citizens in developing countries, who are supposed to be protected by social security systems, including WC, remain vulnerable, and will continue so if neo-liberal globalization is not supported by alternative pro-citizen regimes (George & Wilding, 2002).

#### **4.3.3 Global Citizenship and WC**

The notion of citizenship also intrinsically connotes the idea of exclusion from certain societies. Marshall (1992, p. 14) articulated that “the origin of social rights was membership of local communities and functional association”: namely, full

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<sup>13</sup> The figures are based on surveys about the WC systems in Cambodia, China, India, Indonesia, Lao PDR, Malaysia, Mongolia, the Philippines, Thailand and Vietnam.

membership of the community in which one lives (Glenn, 2000, p. 3). If someone is not involved in a certain community, though, do their rights not need to be protected? Depending on the community to which they belong, should a different level of rights be applied? Asking these questions has included efforts to expand the notion of citizenship to a more universal and global scale. Proponents of the expanded idea of citizenship argue that citizenship does not need to be restricted within the sovereignty of nation-states or certain political structures, and suggest as an alternative “a body of human rights that each individual should possess in any community in which he or she lives and/or works, regardless of national origins and formal citizenships” (Bottomore, 1992, p. 85; Soysal, 1994). These rights would thus exist on a global scale in the context of international inequalities, and amount, in effect, to “global citizenship” (Bellamy, 2008; Midgley, 2007).

The citizenship framework - in particular, global citizenship - is a useful one in explaining the issues relating to WC in both industrially advanced and developing countries. First, the historical contexts in which the idea of citizenship by Marshall originated are not unlike current situations. When the idea emerged at the end of the nineteenth century, after the Industrial Revolution, people flocked to big cities, looking for jobs in manufacturing; and advances in technology forced the replacement of conventional craftsmen with unskilled workers (Hyatt & Law, 2000; Stritch, 2005). Thereafter, the historical evidence is that industrialization and urbanization generated manifold social problems, such as poverty and numerous inequalities. It can be argued, in fact, that this process is

being exactly replicated in the global context. The domestic scale of the first sequence of events has been replaced by an international one. The export of high-risk industries to Asia, Africa and Latin America, as discussed, has produced a number of social evils, including occupational accidents. Just as migration from rural to urban areas, and from agricultural to industrial activities, provoked thinking and discussion on human rights that ultimately led to WC, a transfer of risk from the North to the South demands that we view the problems of occupational accidents in the South from the perspective of global citizenship.

Supporters of neo-liberal globalization argue that the global economy is integrated on the basis of one market, and that in the long run unrestrained global capital power will bring better protection to workers (McCluskey, 2002). In the global subcontracting economy system that takes advantage of domestic cheap labour costs in the South, however, the liability of employers in the TNCs for the injured workers in their foreign plants should be paid for with the profits they make there. Fundamentally, WC is a system that institutionalizes the regulation of employers' liability under the Common Law as a social insurance for the convenience of all labour market parties. The principle of Common Law thus generates the legal foundation for WC. The first plank in that foundation is the obligation of employers to monitor their employees' occupational safety and health in accordance with employment contracts, and the second is the employers' liability for compensation when occupational accidents happen due to the employers' tort or negligence. Furthermore, after compromises between

employers and workers have been agreed on, liability for occupational accidents and, consequently, for the ensuing physical and mental damage to workers is to be ascribed to employers, because a no-fault standard is applied to injured workers' claims. That is why, as is not the case with other social insurance programs, such as Employment Insurance, National Health Plans and National Pension Plans, in WC only employers contribute to the premiums. Glenn (2000) argues that "materially, the autonomy and freedom of the citizen were made possible by the labour of non-autonomous wives, slaves, children, servants and employees" (p. 3). The richness of the North comes at the expense of workers in the South; the employers should therefore accept liability for those workers' sacrifices.

To sum up, the recent WC reforms in both Canada and South Korea, including the expansion of the merit system and vocational rehabilitation, not only fail to achieve in the expected goal; they have also brought about serious side effects: ones that can undermine social insurance itself. The experience rating system deters injured workers from claiming WC benefits in order to maintain a good occupational safety record and, at the same time, return prodigious sums of money to employers' pockets, at the cost of the collapse of the collective risk pooling system. It also seems evident that the early return-to-work program does not succeed in making injured workers re-enter the labour market, but rather compels them to resort to other social assistance programs, which in turn shift costs from employers to public tax-payers. This vulnerability of WC is also found on the global level. While many workers in precarious positions, including the

non-regular and migrant, are excluded from the protection of WC, injured workers in the South, to which TNCs have transferred dangerous manufacturing plants, are neglected, and without assistance from any of the states. It can thus be argued that issues relating to WC should be dealt with from the perspective of global citizenship.

## **5. Conclusion**

The origin and development of WC are intertwined with the history of modern industrial society. Mass production technology has brought material affluence to humans, on one hand, and on the other has produced a variety of social problems. Workers' compensation was introduced to solve one of the social problems caused by industrialization through social compromise among stakeholders in the labour market. In Canada, the emergence of the idea of citizenship and industrial development in the early 1900s provoked debate on mechanisms to deal with injuries and diseases arising out of, or in the course of, work. In the early twentieth century, the idea of social rights created the foundation for development of Canada's welfare state, and answering questions like, "How should citizens treat one another, and what ought to be provided to them by the state?" generated the central norms of Canada's welfare state regime (Bhatia, 2010; Redden, 2002, p. 112). It is apparent from the circumstances surrounding the advent of WC in Canada that it was a product of the expansion of the notion of citizenship in industrialized nations.

Conversely, WC in South Korea was established through the government imperative for economic growth and its other political purposes, which are typical features of the developmental welfare models of the four "dragon countries" in East Asia: Hong Kong, Singapore, South Korea and Taiwan. Most social policies were subordinated to economic development, and the inception of WC in South

Korea was one of the methods of the authoritarian regime to develop the economy and maintain power.

The initial development of WC in Canada was thus radically different from its counterpart in South Korea; but the two cases demonstrate how neo-liberal ideology and managerialism both led WC in the same direction. The recent reforms marginalize a number of workers and industries, putting them beyond the protection of WC, with the excuse of reducing labour costs and increasing international competitiveness. For instance, the employers' financial incentive of the experience rating system prevents the compensation of injured workers, and eventually renders WC ineffective as a social safety net. Early return-to-work programs are consistent with the “welfare-to-work” model for injured workers, and amount to a method of shifting costs from employers to public tax payers. The WC reforms in question, in both countries, reflect a very narrow and restricted conception – a neo-liberal conception – of citizenship. The access to WC benefits of injured workers as “full members of society” is very conditional on workers' efforts to re-enter the labour market; and if they fail, they fall into the category of “second-class citizen”.

These “anti-labour” elements of social insurance for injured workers are mainly products of neo-liberal globalization, which emphasizes efficiency and competitiveness above all else. In the context of neo-liberal managerialism, a number of workers in developed countries who are, mostly, non-regular and migrant workers are precluded from the protection of WC. While workers in the

North are implicitly marginalized, their counterparts in the South are explicitly ignored by social security systems. Governments in Asia, Africa, and Latin America are reluctant to expand social security programs, including WC, because of pressure from the TNCs, which want to exploit low labour costs in the South.

Considering that it was not workers, but employers, who wanted to introduce WC in the interests of keeping capitalism developing smoothly, it is ironic to see that neo-liberalists, who want to expand capitalism without interference from governments, insist on downsizing WC and, even, on its privatization. I infer that this is because neo-liberal globalization makes WC, which was created to eliminate nuisances to employers caused by occupational accidents in the early industrial era, redundant. In other words, companies can hire non-regular or migrant workers, who are not protected by WC, for hazardous jobs, or they can simply relocate their industrial facilities to the South, where the social security system is not yet well developed.

The question logically arises of what would constitute “fair globalization” in the area of international labour standards. A major argument with regard to it is as below:

The benefits of globalization can be extended to more people and better shared between and within countries, with many more voices having an influence on its course. [We] should seek a process of globalization with a strong social dimension based on universally shared values, and respect for human rights and individual dignity; one that is fair, inclusive, democratically governed and provides opportunities and tangible benefits for all countries and people (World Commission on the Social Dimension of Globalization, 2004, p. ix).

In the report *A Fair Globalization: Creating Opportunities for All*, the International Labour Organization (2004) argues that one of its main premises is the significance of social communication among governments and workers' and employers' organizations within and across borders to gain social cohesion and promote global labour standards.

Just as labour and capital flow unrestricted in globalization, we need to look beyond inter-governmental processes and nation states for solutions to the challenges relating to WC. I want to make two suggestions in this study. First, in the context of South Korean WC, the regulation about deportation of undocumented migrant workers, who suffer occupational accidents, should be modified. In South Korea, when the undocumented migrant workers claim WC, they have to leave South Korea with inadequate care and benefits. The Social Security Agreement that is already effective in South Korea and Canada could be an alternative; the South Korean government should reach an agreement with major exporting countries, and ensure that migrant workers are compensated even after they return to their home country. Second, the scope of WC coverage in Canada should be expanded to all industries and workers. In the case of Ontario, almost 30 per cent of workers are excluded from the protection of WC, and it is reasonable to infer that those are seasonal and non-regular workers. Especially given their precarious position in the employment relationship, there is no way for them to be compensated for occupational accidents other than through the state's intervention.

Last, I want to conclude this study with a story about a migrant worker in South Korea. When I was a front-line worker in the compensation department of the COMWEL, I received a WC benefits claim from an ethnic Korean-Chinese migrant worker. He had come to South Korea to earn money as an undocumented migrant, and found a placement in a pizza parlour as his second job. He said that because of the just-in-time delivery policy of the internationally renowned pizza company, he could not help speeding, and he was hit by another car. He withdrew his claim, however, after I refused his entreaty to not reveal his identity to the immigration office, as the regulations required me to do. A couple of months later, I heard from others that after receiving some compensation from the manager of the pizza company, he was riding a motorcycle to deliver pizza once again. He quit soon after, though, and returned to his family with a large scar on his body, and another one on his mind.

Now I feel compelled to ask myself some questions. What made him come to Korea, leaving his family in China, at the risk of deportation? Why did he risk his neck delivering a pizza? Was it really ethical of me to comply with the regulations, and refuse his request? Are there no alternatives? If I were in that situation again, I would probably have to refuse his entreaty once again. I now realize, however, that if we do not view this kind of issue from a perspective of human rights and global citizenship, there will be no way to return the Chinese migrant worker to his job, or to China, with adequate compensation.

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