Missing in Action: Bridging Capital and Cross-Boundary Discourse

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The regulatory welfare state illuminates path dependencies and tendencies to mutual growth in markets, welfare, and regulation. This article uses two specific welfare-to-work programs, one in Korea and one in Australia, to illustrate the institutional interconnections that are in play within the regulatory welfare state. Governance of these programs is hampered by lack of discursive capacity to identify where problems exist and how they can be fixed. When faced with new programs, implementers look to higher authorities to make sense of and to solve the problems on the ground, but authorities are blinded by old institutional categories that pit market mentalities against welfare mentalities with regulation as an ideological tool, rather than an integral part of solutions. Transparency and cross-boundary listening are necessary to create the bridging capital to make these programs work and reconnect democratically elected governments with their citizens.

Keywords: welfare; regulation; regulatory capitalism; transparency; values

As governments outsource welfare services to private providers, providers compete and markets grow to deliver services. As markets expand, regulation expands, often to ensure that quality services are provided at a competitive price that satisfies users. Regulation shapes the market (sometimes sharpening the focus of services), more welfare needs become visible, more markets emerge, and more regulation is introduced. At an abstract level, Levi-Faur (2014) theorizes that institutions that traditionally have been siloed intellectually as regulation, welfare, and markets actually flourish in response to growth in the others. It is as if institutions are in

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competition and cooperation with each other, each constantly adapting and taking advantage of opportunities presented by the other to expand and to exert influence. As markets or welfare or regulatory institutions expand their reach, J. Braithwaite (2020) argues that "new path dependencies that sustain their own future growth paths" are created. There are more opportunities to expand and capture "old path dependencies" than to break down such pathways. In the context of this argument, path dependence means "the dependence of outcomes on the paths of previous routines, processes, and outcomes." Importantly, new paths will capitalize on the routines, patterns, and outcomes already established and redefine them (Jackall 1983), be they in a government's market, welfare, or regulation silo.

This means, as this special issue illustrates, complex webs of interconnections develop across market, welfare, and regulatory institutions. The connections are situation specific and opportunistic. Because institutional connectedness or interdependency is occurring does not mean that politicians, policy-makers, bureaucrats, service providers, users, and citizens understand what is happening, have control, foresee problems, and can manage these problems. Neither the state nor citizens can see clearly because familiar words acquire new meanings as new interconnections form. Competitive markets in welfare delivery can quickly morph into one dominated by oligopolies. As Benish and Levi-Faur point out in their introduction, expansion does not mean necessarily desirable outcomes, particularly for the least powerful in our society.

One research agenda, the primary concern of this special issue, is to understand the intermingling of regulation, welfare, and market institutions and the implications for governance. A parallel agenda, and one that is important for sustaining democracy, is to understand how people are engaging or failing to engage with these institutional changes. "How institutions think" in Mary Douglas's (1986) terms may constrain an individual's understanding, but as institutional changes occur it is not necessarily the case that people have the language or knowledge to make sense of those changes, or that they even experience them in the same way. In short, policy-makers, implementers, and service users may not be on the same page in terms of what is happening and why: are there benefits? Is it fair? Disruption in how things are done creates diversity in experiences and interpretations of the events. Those wedded to the efficiency of markets in principle may disagree on whether a program should pass costs on to users who are infirm and vulnerable. Those wedded to generous welfare provisions may disagree on whether there should be targeting and streamlining of services to make better use of the budget allocated. Different narratives are constructed depending on values, expectations, social groups, political identities, and trust in authority (V. Braithwaite 2009a). If these different narratives are not given voice and problems resolved, defiance and social fragmentation are likely to result (V. Braithwaite 2009b).

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As contributors to this issue explore the regulatory welfare state (RWS) as a radically different conceptualization of governance, this article asks whether citizens (defined broadly as those affected by a state's policy and actions) are on board to change their way of thinking. If there is truth to the arguments that the rise of populist leaders is associated with the rejection of experts (Kriesi 2014), we might presume that many of the ideas in this issue will unsettle people's consciousness and, in some cases, be resisted as threatening the status quo. This is the issue of concern in this article. More specifically: (a) how are citizens personally affected by changes in how regulation, welfare, and markets are interconnecting? (b) Are these changes affecting the democratic fabric in the sense that citizens feel they no longer see soundness or sense in the actions of their governments? (c) Do citizens feel that what is asked of them is fair and reasonable? Are citizens being treated with respect? And finally, (d) What are the implications for trust in institutions and in government?

We use two case studies from societies with different welfare histories to show that in both cases citizen resistance to government policy and implementation is present and damaging. Government officials and the public alike experience tension as users, managers, and implementers of government programs within the regulatory welfare state. Their expectations and understandings of government are discordant. Many citizens are befuddled by governance arrangements that belie an expectation that a democratic government will care for its people.

We the People: View from Below

This article is concerned with the interface between the RWS and its beneficiaries. Our starting point is the people who are in the mind's eye of politicians, particularly in democracies as elections loom. Marshall's (1950) social contract is in play as electors look to their politicians for policies that protect them from social risks to their individual and collective well-being. These risks relate to security concerns around law and order, economic prosperity, reward for effort, self-sufficiency, and achievement. Equally important to the public are harmony concerns around social cohesion, compassion, equity, and social justice (V. Braithwaite 2009a). In a practical sense this means that governments have responsibility for ensuring safety nets while encouraging economic growth. Most recently, this has been visible during the COVID-19 pandemic, with many governments (including those under study here) devising policies that simultaneously steer their economies and safeguard the health of their citizens.

Governments do not have to deliver protection of the security or harmony kinds: how much they do themselves depends on the type of welfare state that has developed historically and that frames public expectations (Esping-Anderson 1990). But the responsibility of all governments traditionally has been to oversee the systems of delivery, which generally rely on families, informal networks, and private organizations, as well as government agencies to varying degrees. Recent decades have seen increased complexity in the targets of welfare from multinationals to the unemployed; in the networks of delivery across different levels of government with public and private providers; and in the laws, rules, contracts, standards, and computer systems that regulate delivery. The regulation-welfare-markets conceptualization suggests that leaders are everywhere, and that power is exerted everywhere in moments of opportunity, on occasion crippling and at other times enhancing the performance of other institutions. Confronted with so many moving parts, legitimate questions from citizens include, "Who is in charge?"; "Who should be in charge?"; "What does it mean to be in charge?"; and, finally, "What is all this in aid of?" For the public, what is missing in this new governance era is sense-making, accountability, and transparency. Understandably the public look to their political leaders. Trust ratings across democratically elected governments suggest that answers are not consistently satisfying (OECD 2019).

Regulatory scholars might argue that their contribution to the regulation-welfare-markets juggernaut is accountability and transparency. Unfortunately, such mechanisms are not connected with sense-making for the public. What they see is something technocratic and bureaucratic. Marver Bernstein (1955) wrote of the problem of the U.S. railways commission becoming so intricate in its rule-making that it became disconnected from other arms of government and from those being regulated. This is a telling case study because rail travel had a shockingly high mortality rate in the nineteenth century, before the rise of the Progressive Era version of the regulatory state, and a very low accident rate by Marver Bernstein's time. Today's regulators run a similar risk from regulatory life cycles of being disconnected from the people whom, on many fronts, they want to protect from harm. In the face of regulation-welfare-market interconnectedness, people crave leadership to explain and justify new systems of welfare delivery and governance arrangements.

The point this article makes is that the public needs to be part of a conversation about the regulatory welfare state. The two case studies discussed in this article show public discontent and absence of leadership or bridging capital for carrying sense-making messages down, up, and across networks. In these case studies, the blinkers of old institutional forms prevent cross-boundary thinking to solve new problems. This is to be expected with new institutional forms. We have yet to acquire the language and understanding to communicate the essence of the changes. In the meantime, however, democratic governments struggle with skeptical citizens because authorities cannot convincingly explain who is at the table when decisions are made, who wins, and who pays. We illustrate the problems through two specific programs that fall under the welfare-to-work umbrella in the Republic of Korea and Australia.

Two Programs Illustrating Regulation-Welfare-Market Alignments

The cases discussed here are taken from two independent studies of government-sponsored welfare-to-work programs: the Korea Senior Employment Program

(KSEP), which supports participation in the workforce for Koreans over 65 years of age (Lee, forthcoming), and the Australian Robodebt Program designed to efficiently capture welfare overpayments for those with low incomes or those out of work (J. Braithwaite, this volume; V. Braithwaite 2020).

While the programs differ in purpose and context, they are both examples of institutional innovations that interconnect regulation, welfare, and markets. Both created tremors that rippled through their respective populations. Experienced policy-makers sometimes contend that all new policies create resistance and in time settle down. There is evidence to the contrary (Ahmed and Braithwaite 2004). This article extends understanding of what has previously been an observation—the public are confused by the priorities and actions of governments as they actively engage in coupling institutions that politicians have historically and rhetorically pitted against each other. For example, the public are used to hearing accounts of how markets commodify and diminish the quality of welfare, welfare undermines incentives for markets, and regulation chokes markets and stifles welfare. Sense-making around successful coupling is sadly lacking. A notable exception is welfare-to-work programs, which have won wide acceptance captured by the dictum, "The best form of welfare is work." Even so, at the point of implementation, successful coupling was not the experience of welfare recipients in our two programs: we show how criticism and discord on what the programs offered to Australians and South Koreans were rife inside and outside government.

The Korea Senior Employment Program (KSEP): Regulating job creation through welfare and markets

Government sponsored welfare programs are relatively recent phenomena in the Republic of Korea. A subpopulation of particular concern in recent times has been older Koreans (OECD 2018, 2019). Koreans look forward to a healthy old age—their life expectancy is among the highest in the world (Kontis et al. 2017). Yet they also face the highest rates of old age poverty in the OECD. As Korea has become an advanced economy, traditional intergenerational patterns of family support have broken down (Klassen and Yang 2014), and so the state has been called upon to help the almost 50 percent of senior Koreans living in poverty, often alone, and sometimes homeless. Geriatric mental health is a major public health issue (Shin and Hwang 2018) and work has been seen as part of the solution.

While employment is being used to address mental health and poverty issues for Korea's elderly population, there is also a national economic imperative for increasing their work participation rates (OECD 2018). Korea has a population that is ageing rapidly, with projections that by 2050 more than one third of the population will be over 65 (United Nations Department of Economic and Social Affairs 2015). Extending work and alleviating poverty present particular challenges for Korea because many firms prefer a younger workforce and have mandatory retirement policies for older Koreans (Klassen and Yang 2014). The OECD has urged the South Korean government to expand its job-creation and welfare activities and to develop policies that address discrimination against older workers, the structural reasons for discrimination, and offer incentives to mid-career and older workers to remain engaged in work and retraining (OECD 2012).

Korea has quite quickly developed a mixture of programs in an effort to provide a minimum standard of living for elderly citizens. They include private pension funds and public support programs that are targeted to groups of variable income security and work histories (Thakur 2018). KSEP is one program designed specifically to bring older Koreans into the workforce. It began in 2008, under the umbrella of the Ministry of Health and Welfare, and has continued its expansion despite pushes within the government to rationalize welfare expenditure in favor of job creation in the private sector (Ji 2015). KSEP provides work opportunities under two broad categories: social contribution jobs (public service, caregiving, and education) and market entry jobs (labor-dispatch and self-employment).

Eligible participants (over 65 years of age) are required to submit an application to KSEP, which is reviewed for eligibility and suitability for the available jobs. Most jobs offered by KSEP fall in the public service category. They constitute 67.7 percent of KSEP work opportunities (KORDI 2016). These jobs are low skill and require low educational attainment. The remuneration is less than half the national average hourly income. Participants in social contribution jobs receive fixed monthly salaries of 200,000 won (approximately US$165) during a 9- to 12-month participation period.

KSEP jobs that are created in partnership with the private sector are called market entry jobs. They are much preferred because the work contracts are longer and often the pay is better, and they may potentially be a pathway to regular employment. To increase market-entry jobs, the Ministry of Health and Welfare in 2018 began to offer incentives for companies that provided longer contracts for older workers. Companies where the majority of employees are elderly are accredited as “merited enterprises for elderly employment” and have been offered incentives such as social insurance and subsidies for company promotion and improved working environments.

KSEP participants must not work more than 3 to 4 hours a day and 3 to 5 days a week. The rationale is to protect older workers from the physical and mental burden caused by overwork. It is of note that work injury is not an inconsequential problem in Korea and exploitation of an elderly workforce is something to be guarded against (Congressional Audit 2019a). Until recently, those who found work through KSEP were not systematically insured against work-related injury. Contested within government has been the practice of classifying social contribution jobs as welfare for the elderly and not as “real jobs” where insurance is appropriate. The dispute was worsened when responsibility for insurance was shifted to local bodies administering the program. Some implementing organizations were able to cope with the insurance premium, but many others struggled to cope with the financial and administrative burden of making sure KSEP participants had the same protections as other workers. The payment burden in the end fell on the shoulders of participants, but many refused to pay because the financial burden was too great. Others were excluded from insurance because of work conditions; for example, they had too short a contract or insufficient hours of work. The implementing organizations and participants were persistent in communicating these problems to the Congress and the ministry to achieve change. In 2018, a newly modified KSEP acknowledged KSEP participants as employees and provided insurance against injury.

Hence, KSEP is an example of a welfare-to-work program, specifically for older Koreans, that uses markets and welfare to address care for the elderly population and economic growth. The regulatory framework for delivery is expanding rapidly and has changed as KSEP has developed. Intervening between the Ministry of Health and Welfare and local grantee organizations is KORDI, which has taken on an expanded governance role, overseeing the overall KSEP budget, program administration, grantee organizations, and evaluation. KORDI, while officially in the Department of Health and Welfare, is well-networked with the central government. Since the inception of KSEP, KORDI has had the task of creating jobs and partnering with private businesses that wish to participate in providing work positions for older people. While the welfare arm (specifically social contribution jobs) remains dominant, there is little doubt that the momentum is with building work opportunities in the private sector under KORDI's leadership.

Six provincial KORDI offices have recently been opened to create more locally specialized jobs. KORDI allocates jobs through five types of local implementing bodies that oversee work contracts for successful KSEP applicants: provincial government offices, Senior Clubs, the Korean Association of Older People, local community centers, and local senior centers. Local governments that have had prime responsibility for coordinating pre-existing social delivery systems have a limited role in KSEP management and evaluation. Most growth has occurred in the Senior Clubs, newly established semi-public organizations that aim to grow local KSEP jobs (KORDI 2016).

KSEP has multiple levels of administration that extend across government departments, across public and private service providers, and across public and private employers. We should acknowledge that some of the changes that we have described have been welcomed by South Koreans. It is fair to say that older Koreans prefer work in the private sector, and so increases in the availability of such jobs has been met with approval. But these movements privilege some more than others in ways that do not make sense to Koreans. The gold standard for older Koreans is a particular program from the Ministry of Labour. This program is open to those over 60 years of age with three years' work experience and appropriate licenses. Entry into this scheme is much sought after because it offers higher income and longer working hours, but it is limited to 2,500 jobs. This is a quarter of the number of jobs supported by a comparable employment program for those over 50 years of age (Congressional Audit 2019b).

In this case study, we see the interconnectedness of welfare and markets, each driving the other forward, with the regulatory mechanisms available to KORDI and to the Department of Human Services steering and adjudicating the flow of events to ensure all parties have reason to cooperate. Yet while regulation, welfare, and markets are reinforcing each other at a policy level, there are innumerable tensions playing out at the coalface that explain why individuals might be forgiven for thinking in win-lose terms about the relationships among regulation, welfare, and markets. Conditions differ across programs and different ministries compete and firewall their programs and practices to the detriment of service delivery. For example, the different levels of coverage for injury that persisted for so long was a boundary issue within the government but made no sense and was seen as unfair by KSEP beneficiaries. Some private sector jobs offered coverage and some national jobs did as well, but individuals assigned to local social contribution jobs missed out. Furthermore, the hierarchical nature of the KSEP program meant that there was no transparency in the way jobs were allocated to individuals, and support to tailor jobs to individual needs was lacking. The experience of individuals and organizations working in KSEP is less positive than the picture portrayed at the macro level of policy and design.

The Australian Robodebt Program: Regulating overpayment of welfare benefits

The welfare system in Australia is elaborate and the calculation of payments can be complex. Payments from a diverse range of welfare programs can be affected by a range of factors, including income, assets, age, caring responsibilities, relationships, living situation, being a student, and capacity to perform activities of daily life. Just over half of households and around a third of adult Australians receive income support (Whiteford 2015).

Within this system, overpayment of benefits and welfare fraud have always been of concern, particularly so because the costs of detection and recovery are so high (Prenzler 2011). Robodebt, the Australian public's vote for "Word of the Year" in 2019, refers to the controversial methodology introduced mid-2016 for recovering presumed overpayments to social welfare recipients (Senate Community Affairs References Committee 2017). The Robodebt program is a data matching algorithm that compares data from the Australian Taxation Office with the data that welfare recipients are legally required to provide to the government welfare service provider, Centrelink. Recipients are responsible for informing Centrelink of changes to their circumstances within 14 days of those changes to ensure accurate payments are made. An overpayment is assumed when the declarations made by recipients to Centrelink are lower than the estimates extracted from tax office data. An automatically generated letter is then posted to the welfare recipient demanding payment or proof that the debt was invalid.

The administrative workload associated with debt calculation was shifted entirely to technology in the form of the data matching algorithm. A costly additional step of human oversight, which previously involved checking records after a data matching process, contacting employers, understanding the reason for discrepancies, and then deciding who had received an overpayment, was abandoned. This was a program to make street-level bureaucracy (Lipsky1980) and responsiveness obsolete. The onus of proof for checking and collecting documentation to change the computer-generated decision was passed to the welfare recipient. Debt calculation was retrospective up to seven years.

If the welfare recipient could not prove that the debt was invalid because they had not retained up to seven years of employee pay records, because they could not contact former employers for records, or because they had not been given adequate documentation in the first place, options were limited. The Department of Human Services was intent on recouping revenue to improve the government's budgetary position. There were myriad features of the scheme that made it very difficult to avoid paying the alleged debt. Call centers were understaffed, debts routinely were not explained, and it was difficult to assemble and lodge the documentation that was a prerequisite for having a case reviewed. Taking the matter to court resulted in success in a significant number of cases in so far as debts were reduced or wiped out. But taking the matter to court was daunting for many and time lines for payment of the debt without penalty were tight. Stories of successes at court, however, led to a groundswell of protest against Robodebt involving opposition politicians, administrative lawyers, legal aid lawyers, welfare advocacy groups, professional bodies, and the public. #NotMyDebt was a web site that was set up by those affected. It attracted supporters, shared stories and advice, and organized resistance.[1]

A substantial proportion of the debts turned out to be incorrect. The estimate taken from tax office data was based on annual income and the assumption was made that this money was earned at the same rate across welfare payment periods. This became known as the averaging fallacy, that is, Robodebt's assumption that people on welfare consistently earn the same amount of money each fortnight throughout the year. Those designing Robodebt failed to take account of the fact that seasonal work, being in and out of work, irregular payment, and ill-health disrupted the income earning capacity of those on welfare. The averaging assumption led to the most egregious form of false debts. Many paid the false debts, even though they did not believe they owed the money—they were afraid of harassment by debt collectors or being cut off from future payments by Centrelink. The payments were referred to by critics outside government as "extortion" (Carney 2018a). The Robodebt Scandal triggered two Commonwealth Ombudsman Reports, two Senate Committee inquiries in the Australian parliament (the second to report in December 2020[2]), a Federal Court case that found the government program to be illegal because it was issuing false debts, and a pending class action against the government seeking compensation (Commonwealth Ombudsman 2017, 2019; Carney 2018a, 2018b, 2019; Senate Community Affairs References Committee 2017).

The Robodebt Program was a regulatory solution that the government chose as an innovative way to detect fraud and overpayment without need for human oversight. The government's goal was arguably reasonable. It was looking for efficiency through simultaneously recovering overpayment and reducing expenditure on skilled welfare staff. The opening quote from the Senate Community Affairs References Committee Inquiry (2017) into the Program underlined the shared view of Australians: "I do not support or condone the abuse of the welfare system in any way, and strongly feel that anyone who wilfully rorts the system by providing false information should be caught and punished" (p. 1). It was not the objective that was contentious, but rather the regulatory process that was put in place to achieve the objective. In short, most Australians believed that Robodebt should be shut down (Essential Report 2019). To complete the quote above: "The system of debt recovery needs to be respectful and it needs to be fair and ethical."

The regulatory missteps occurred at four stages of the debt recovery process: calculation, communication, conciliation, and collection. First, the Robodebt calculation had a fundamental flaw. Welfare agencies sprung into action to protect the vulnerable who neither understood nor were able to initiate corrective action. The second misstep was restricting the government's human interface and closing down communication. This gave people limited opportunity to understand the source of the debt and resolve their situation with the government. Instead welfare groups, legal aid, and consumer groups provided much-needed support and advocacy. The third regulatory misstep of government was game-playing the legal system and avoiding accountability. Magistrates of the Administrative Appeals Tribunal (AAT), which hears cases from citizens (and organizations) aggrieved by the administrative decisions of the Australian Government, recognized the "averaging fallacy" early in the history of Robodebt. Magistrates sent cases back to the department for review. The department did not appeal these decisions by the magistrates: on review, debts were commonly reduced. If the department had pursued an appeal in the court, the case would have progressed to being one on the public record. Settling out of court prevented disclosure of what was happening. Meanwhile, the workload for correcting the errors of Robodebt were quietly shifted from the government to an overburdened court system. It was not surprising, therefore, that administrative lawyers became some of the most vocal opponents of Robodebt.

The fourth and final regulatory misstep occurred with debt collection. Debts were collected before complaints were reconciled, using actions that, according to administrative lawyers, departed from model litigant policy. Model litigant policy requires the government to uphold the principle of fair play and avoid conducting litigation in ways oppressive of citizens (Carney 2018b, 9). This is the idea that the state should be a moral exemplar of justice in regulatory welfare capitalism. Those giving evidence to the Senate Inquiry reported that without warning or explanation they were subjected to garnisheeing of debts from income tax returns, deductions from government benefits, and harassment and coercion from private debt collectors.

In reflecting on the government's foray into big data with Robodebt, Galloway (2017) concluded that there had been "a breakdown in standards of governance" (p. 94) and government had "lost its way" (p. 95). With so much new surveillance technology at its disposal, Galloway raised the question of whether "government can be effectively constrained in its exercise of power" (p. 95). Those adopting a regulation-welfare-markets conception would answer yes, that it can be constrained, given time. Evidence to date supports this prediction. It took three and a half years, but constraint was exercised. This was, however, cold comfort for those whose lives fell apart as a result of Robodebt (see Senate Community Affairs References Committee 2017).

The story of Robodebt is one of powerful government actors trapped in thinking that they were part of an old-style welfare system, separated from mainstream society and unaccountable for welfare abuses. As Murphy (2019) stated upon reviewing the scandal: “Robodebt was hatched for a simple, clinical purpose: to return money to the budget at a time when the budget was firmly in the red. . . .Better to go after people you like to characterize as spongers on the public purse than people who might get angry enough with you to vote for someone else.” In contrast to times past when injustice to welfare recipients was swept under the carpet, Robodebt became a very public scandal for the government, largely because welfare is so interconnected with job markets and social regulation that it can no longer be successfully siloed. Private and public interests were enrolled in the regulatory processes to action Robodebt, and not all were on board ethically with the way it was used. Those affected had networks that they could marshal to constrain the program. This they did: networks of politicians, welfare advocates, and private interest groups, including lawyers, financial advisors, professional bodies, debt collectors, and private law firms were mobilized. Law may have been the final nail in the coffin of Robodebt, but the issue of illegality became far more lethal for government thanks to a broad coalition of support from a diverse community, as well as the rise of Australia’s industry of class actions led by private law firms. At the time of writing this article, the government has agreed to refund overpayments (Henriques-Gomes 2020).

KSEP and Robodebt as Lived Experience

V. Braithwaite’s (2017) wheel of social alignments provides the methodological framework for illustrating how experience and understanding of the KSEP and Robodebt programs generate public unease over the consequences of regulation-welfare-markets interconnections. When individuals or organizations recognize that there are benefits to cooperating with the regulatory requirements of a program, when the program is administered in a fair and reasonable manner, and when there is moral obligation to do what authority requires, cooperation is most likely to emerge and will generate its own community inertia such that cooperation continues— even as the program hits inevitable bumps in the road. However, when belief in benefits fades, or unfairness becomes intolerable, or moral obligation wanes on a large enough scale in the community, the wheel will stop. On such occasions, alternative authorities can make their presence felt to the point of undermining the legitimacy of the presiding authority. In our case studies, the wheel did not stop: strong welfare, strong markets, and strong regulation came into play at different points to temper (Krygier 2019) the poor decisions of the other. Individuals were not spared, however, as institutional forces slowly realigned. The data presented here show feelings of betrayal at the hands of market ideology, welfare dogma, and clunky automation of regulation, singly or in combination.

The data used to illustrate doubts about benefits, fairness, and obligation are taken from two different studies. The study of KSEP undertaken by Sora Lee (forthcoming) involved forty-four interviews with KSEP participants and stakeholders. The data are part of a larger project investigating welfare policy governance in Korea. The study of Robodebt was undertaken by Valerie Braithwaite and relied on 126 written submissions[3] provided to two public inquiries initiated by nongovernment members of the Senate in the Australian parliament. Both studies provided access to the views of civil servants, private providers and implementers, welfare recipients, and advocacy and support groups whose lives were affected by these programs.

Perceptions of benefits

Clients, civil society actors helping clients, and government employees implementing the programs all perceived program failures with KSEP and Robodebt.

An ex-KSEP participant reflected on his experience:

> Can you imagine how deserted you might feel as an older man, worked throughout all his life, and left with just pocket money (Basic Pension)? You don't want to burden your children, because their lives are just as hard. But the government is just ashamed to have this much poverty, and this much unemployment. For the government, we are a useless old bunch. Something's not right.

A similar feeling of being trampled by an uncaring system occurred with Robodebt clients. This client had been successful in having the debt overturned:

> A demanding debt notice of such a magnitude, with no explanation, from over six years ago, with a very limited amount of time to respond, just plunges a financially stressed person into shock, panic, despair and depression. . . . . Increasing a person's level of poverty for no good reason is unethical and inhumane. (Senate Inquiry 2017, Submission 005)

Both KSEP and Robodebt placed social distance between policy designers and those working with clients. Front line organizations were in the vacant space trying to repair the damage that the programs inflicted.

A private sector KSEP implementer questioned program benefits:

> I think the government has to decide what really is the purpose of the program. Is it an employment program or welfare program? The current evaluating components are all revenue related . . . revenue, incentive payment, months of employment . . . If they really want to foster a market type program . . . other benefits for "ethical companies" need to be in place. Right now, the values are misplaced.

Victoria Legal Aid, with many Robodebt cases on their books, was scathing in its criticism of the government's inability to balance its value commitments responsibly:

> VLA supports efficiency and expediency as hallmarks of good government decision-making and administration. We also support the intelligent, lawful, and valuable application by government of technology, including to manage government funds. [But]. . . in our experience, the [Robodebt] Initiative undermines key tenets of proper and lawful government action. . . .The cumulative impact will damage the overall integrity of the Centrelink system. (Senate Inquiry 2017, Submission 111)

Last, but not least, failures of both programs to actually benefit the public in ways promised by their respective governments were obvious to officials working within the system. For KSEP, a stand off developed higher up between ministries over injury and illness among participants. This comment from one of central government's welfare data management staff illustrated a highly visible problem that was for a long time ignored to the detriment of KSEP participants:

> Who is actually concerned in this cross-boundary issue? Who is taking responsibility? Actually . . . no one in the ministry. Roles are highly compartmentalized and clearly divided, and last time I checked, no one is looking into the problem of "insurability" of KSEP participants in the ministry. You are welcome to dig out who is, and let me know if you do.

For those working within the department administering Robodebt, frustration was expressed not just on behalf of others but also on behalf of fellow staff:

> DHS is well and truly broken. In the 24 years that I have been employed here, the place has never been so dysfunctional, so many bad decisions being made at a senior management level, so resource strained, have so much arrears, having rolled out stupid tools and systems that make our jobs more inefficient than they were before the new system or policy was implemented. (Senate Inquiry 2017, Submission 065)

Together, these comments show the governments' failure to deliver on their democratic social contract with their citizens and how they allowed harms generated by these programs to persist. In the words of one Robodebt official, "DHS continues to ignore everything staff and customers are saying, and are in their own fairy world that 'everything is great!'" In the case of KSEP, frustration was equally palpable for this local implementer: "I wonder if they recognize what it would be like to absorb their separate policies at the local level. People are all just one person with complex needs that are intertwined. If they don't understand that, there's only so much we can do."

Fairness

Both unfairness and unreasonableness were rife in KSEP and Robodebt. Those implementing KSEP saw hierarchical structures, bureaucratic silos, and rules that denied them the flexibility to place senior citizens in work that was suitable for them. Local implementers and program participants felt cornered and without a voice: "It feels like we are filling a leaking jar hopelessly. No matter how hard we try our voice just doesn't get heard." One agency confirmed the problem of prejudice: "We are bound to avoid older and disabled applicants because participating companies do not prefer them. . . . The private sector makes complaints about us for sending those participants." A disappointed applicant made sense of failure to get a job in a different way: "I suspect the jobs are distributed among those who know someone in the government. . . . It just feels like it would never reach normal people like me."

Robodebt touched the lives of so many people in such an unjust way. The final report of the 2017 Senate Inquiry captured the experiences of the many Australians caught up in the program:

> The system was so flawed that it was set up to fail. . . . This lack of procedural fairness disempowered people, causing emotional trauma, stress and shame. This was intensified when the Government subsequently publicly released personal information about people who spoke out against the process. (p. 107)

Moral obligation

Within democratic societies, the social contract with the government requires that citizens and residents of the country obey the laws. One might extend this to rules and regulations, with the understanding that noncompliance more broadly can be costly—materially, socially, and psychologically. We know that flouting law occurs when injustice is rife. Nadler (2005) applies the concept of flouting the law to situations where people experience injustice in one context and then transfer that sense of injustice and flout the law in other contexts. Robodebt, in theory, could have the unexpected consequence of welfare recipients finding work in the cash economy to even out the fluctuating income that has made them vulnerable to the averaging fallacy and Robodebt (V. Braithwaite 2020).

If we assume that rules were breached or bent in both Korea and Australia in a bid to find justice, we should ask, why did authorities not respond to complaints and create legitimate pathways for those aggrieved by unfair rules? Regulation-welfare-markets interconnections require the government to see the bigger picture. Neither the Korean nor Australian governments were equipped for such oversight.

The Korean government embarked in 2010 on an initiative called "Raising Efficiency in Centrally-Funded Employment Policies" (Korea Ministry of Labour 2010). The Ministry of Labour led the initiative and sought a merger of all the employment-related programs across sectors, including old-age work programs (KORDI 2014; Ji 2015). Resistance came from the Ministry of Health and Welfare and from many KSEP managers, both public and private, as well as the community, because the Ministry of Labour's "redundancy" agenda did not recognize that different work programs had different purposes and were meeting different community needs. More specifically, social contribution jobs were at risk because they were not seen by the National Budget Office as sufficiently beneficial to the economy. Those opposing the change wanted a government review that took into account interdependence of different work programs and the "organic connectivity of policies from different ministries."[4]

A meaningful dialogue on how different programs could be better coordinated in the interests of older Koreans did not ensue. The ministries did not come together to learn from each other and work through their conflicting value priorities. Instead the Board of Audit and Inspection quickly dampened the looming controversy with a bureaucratic and technocratic solution (Lee, forthcoming). Anyone under 65 would be managed by the Ministry for Labour. Anyone over 65 would seek work through the Ministry for Health and Welfare. The ministries "firewalled" their programs rather than integrating them into a whole-of-government approach. Issues that were giving rise to mistrust among those involved in KSEP on the ground were left unresolved.

In the case of Robodebt, similar tribalism shaped the actions of the Department of Human Services. Trusted sources close to or within the government warned of the illegality of averaging tax data; a confidential, early judgment from the Administrative Appeals Tribunal, advice from the Department of Human Services lawyers, and advice from the Australian Taxation Office lawyers all raised red flags around Robodebt.[5] As in Korea, there was unwillingness to listen to and be responsive to different voices with relevant experience and knowledge. As with KSEP, concerns from below were ignored. The Commonwealth Public Service Union documented the frustration over failures to learn and listen within the department: "Many members stated that concerns were raised during the design process but were simply ignored" (Senate Inquiry 2017, Submission 065).

Once problems started to emerge, communication was blocked: "Many DHS [Department of Human Services] staff have been concerned about disclosing the Robodebt debacle, particularly as staff have been sent numerous emails warning them about doing so" (Senate Inquiry 2017, Submission 065). The Senate Inquiry revealed the schism within the department between the higher and lower echelons of public service: "We've completely lost faith in our leaders. . . . Our systems are failing, it seems like 'head office' is making decisions regarding how we do our work with the primary motivator being 'how to hide mistakes and how to make the stats look good'" (Senate Inquiry 2017, Submission 065).

Conclusion

This article supports the argument that regulation, welfare, and markets are becoming interconnected and stronger institutions, and that the premise holds even in the traditionally siloed case of care for the vulnerable. As such, there is potential for each to guard against the excesses of the others in the evolution of good governance. At the same time, we have demonstrated that on the ground, beliefs about the integrity and trustworthiness of these interconnected institutions, at least in relation to KSEP and Robodebt, are less affirming.

Scale and time can reconcile these different perspectives. Given enough time, regulation, welfare, and markets are strong and rich enough as institutions to correct the errors of the other. But who decides what is an error and what is not? The warning that emerges from this article for practicing democracies is the importance of strengthening pathways for feedback about programs from the grassroots and investing in the social infrastructure for collaborative responsiveness.

In both Korea and Australia, these pathways were blocked by regulation that was too oriented to the interests and ideological preferences of more powerful players. How best to balance and steer the path dependency of regulation, welfare, and markets is yet to be discovered. What is clear, however, is that greater efforts must be made to allow the experiences of those affected by programs such as KSEP and Robodebt to be heard before an accumulation of missteps, covered up and dismissed as unimportant, wreak havoc and weaken the social fabric of our democracies. Perhaps what is required in a world of more intertwined regulation-welfare-markets is more intertwined administrative law, parliamentary oversight, and trade union mediation, and more civil society activists and street-level bureaucrats who listen and are listened to.

Notes

1. https://www.notmydebt.com.au/.
2. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Centrelinkcompliance.
3. A further 40 submissions were provided to the second Inquiry after this analysis was undertaken. Of the 156 submissions to the first Inquiry, 99 were publicly available and 57 were submitted to the Inquiry on a confidential basis.
4. Researcher, government research institution.
5. Evidence given in hearings to the second Senate Inquiry, see Henriques-Gomes (2020).

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