

Leprosy, Legal Mobilization, and the Public Sphere in Japan and South Korea

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This article addresses the question of what gets transmitted in cross-national diffusion and why. It does so by analyzing the spread of rights-based activism from Japanese to South Korean leprosy (Hansen's disease) survivors in the 2000s. Previous scholarship would predict extensive diffusion of mobilizing frames and tactics, especially since Korean lawyers learned an effective legal mobilization template while working with Japanese lawyers to win compensation for Korean leprosy survivors mistreated by Japanese colonial authorities before 1945. Yet the form of subsequent activism by Korean leprosy survivors for redress from the Korean government differed from the original Japanese model. This case suggests the need for scope conditions on theories about isomorphism and the agency of brokers. In particular, it draws attention to how the structure of a country's public sphere—and especially its legal profession, news media, and activist sector—affects the feasibility of imported innovations related to activism and legal mobilization.

Rights-based activism spread among East Asia's leprosy communities in the late 1990s and early 2000s. Stigmatized and misunderstood through much of history, the chronic skin ailment leprosy (also called Hansen's disease) has been known to be rarely infectious and fully treatable since the 1950s.¹ If detected early, it no longer disfigures sufferers as in past generations. Yet throughout

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¹ A note on terminology: "leper" is pejorative and thus avoided here. In 1995 and 1999, respectively, Japanese and Korean Hansen's disease survivors persuaded their governments to replace the term leprosy (*raibyō/nabyeong*) with "Hansen's disease" in official documents. But since "leprosy" is the more common term in the American medical and social sciences, I use Hansen's disease and leprosy interchangeably.

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the twentieth century, the thousands of survivors of the disease still living in Japan and South Korea (the Republic of Korea, ROK) endured multifaceted rights infringements due to state policies and social prejudice. Beginning in Japan in 1998, leprosy survivors started claiming restitution from the state (*kokka baishō*) for the forcible institutionalization, vasectomies, and abortions they had suffered. After a landmark court ruling in 2001 found that the Japanese government had violated leprosy survivors' constitutional rights to dignity and freedom of movement, Japan's prime minister officially apologized and the Diet enacted sweeping compensation legislation. Japanese leprosy survivors' 2001 victory and Japanese lawyers' transnational activism prompted elderly Korean and Taiwanese leprosy survivors to claim compensation for their suffering under Japanese colonial rule. The ensuing transnational legal battle led Japan to revise the 2001 law and compensate these elderly claimants in 2006. The Korean National Assembly subsequently passed legislation in 2007 to provide state aid to victims of postwar leprosy-related persecution. And Taiwan started compensating leprosy survivors in 2008. Both laws were passed in response to Korean and Taiwanese leprosy survivors' domestic activism, which drew explicitly on the earlier Japanese movement.

Focusing on the diffusion of mobilizing tactics and frames from Japan to Korea, I use the little-known case of East Asian leprosy survivors' activism to explore what gets transmitted and why. This case is analytically interesting not just because transborder collaboration and learning occurred at a moment of rising tensions over historical memory. The differences between Hansen's disease-related activism in Japan and Korea are also surprising in the context of what previous scholarship would consider ideal conditions for mobilizing tactics and frames to diffuse. Korean leprosy survivors and their lawyers benchmarked the 2001 Japanese law. Many also collaborated with Japanese lawyers in the transnational campaign for restitution from Japan and learned how to organize a legal team to sue the state, construct legal claims for redress, and use publicity to gain supporters. As the leader of Korea's leprosy community explained in 2009, "we could only claim redress from our own government because the Japanese had won compensation in 2001."² Previous scholarship indicates that such collaboration among determined innovators, geographic and cultural proximity, these countries' similar legal institutions, and Japanese and Korean leprosy survivors' analogous identities and grievances would facilitate movement diffusion from Japan to Korea (e.g., Givan, Roberts, and Soule 2010a). Especially since the Japanese movement was so

² Interview with Lim Du-seong, legislator and leprosy survivor, Seoul, February 5, 2009.

effective, one might expect something like what neo-institutionalists have called mimetic isomorphism (DiMaggio and Powell 1983).

Yet the form that Hansen's disease activism took in Korea and, by extension, the redress it elicited diverged from the Japanese model. The Japanese Hansen's disease movement used litigation and publicity to mobilize public outrage against the state and thereby catalyze compensation legislation in 2001. Transnational legal mobilization related to Korean leprosy survivors' colonial era claims in Japan also followed a bottom-up trajectory. Yet Korea's domestic Hansen's disease movement altered mobilizing frames and tactical innovations from Japan. Even though activism in Japan helped Korean leprosy survivors realize they had a right to claim restitution from the ROK government for past mistreatment and even though Korean lawyers tried to follow the proven Japanese model, the Korean movement ended up using connections with lawmakers to pursue special legislation amid limited mobilization and publicity. The Korean movement only resorted to litigation after this top-down strategy produced unsatisfactory legislation.

By analyzing such paradoxical divergence under conducive conditions for diffusion, my research indicates potential weaknesses in previous theories about movement diffusion. In particular, this case points to an under-theorized constraint that innovators face as they seek to adopt movement tactics and frames from abroad: the structure of their country's public sphere. As detailed below, previous scholars have found that imported innovations are often modified, whether due to strategic choices or institutional constraints. But these studies have paid little attention to how the characteristics of three key mediating institutions—the legal profession, news media, and activist sector—structure a receiving country's public sphere in ways that constrain but do not determine social movements' options. Building off Habermas' (1989) influential but contested notion, I follow previous scholarship in defining the public sphere as the “nexus of processes and institutions . . . [that] are involved in the construction of political meaning and formation of opinion” (Hallin 1994: 9). Crucial to these processes and institutions are lawyers, journalists, and activists whose roles as “public professionals” make them more audible and visible than ordinary citizens (Stern and Hassid 2012: 1232). They and the institutions they represent differ cross-nationally in their organizational structures and norms, but they are alike in that they filter information, shape people's perceptions of issues, and supply the means of reaching target audiences. As such, they affect the feasibility of imported ideas and practices related to activism and legal mobilization. Most conceptions of the public sphere focus only on the intermediary functions of the media and civil society

organizations (e.g., Habermas 2006), but I include lawyers because of their growing role in efforts to hold democratic governments accountable and in the judicialization of politics more generally (Vallinder 1994). My argument also follows Dezalay and Garth (1996), whose study of the spread of international commercial arbitration found that the proclivities of innovators and the institutions they serve affected the timing and extent of diffusion.

I find that the structure of a country's public sphere varies depending on how autonomous its lawyers are, how diverse the media environment is, and how professionalized its activist sector is. In characterizing a country's mediating institutions, I draw on studies of professions or fields, which examine the differentiated spheres of activity in modern societies (e.g., Bourdieu 1986; Fligstein and McAdam 2011; Scott and Meyer 1983). Autonomy for lawyers implies not only freedom from state interference but also relatively low levels of integration with political parties, law firms, and other organizations with interests of their own. Autonomous lawyers have greater leeway to challenge the state and other powerful actors in society. When a country's news media comprise diverse outlets that cover topics from various perspectives, they create low barriers to entry for grievance groups seeking publicity. But the segmentation that develops among such diverse outlets catering to niche audiences also limits the number of people grievance groups can reach. Although a more homogeneous and less segmented media environment poses higher barriers to entry, it increases the likelihood that grievance groups' messages will reach more people. Finally, a professionalized and centrally organized activist sector tends to wield political influence but suffer from weak links to ordinary citizens. Citizen-activist groups may have stronger grassroots linkages but lack the wherewithal to influence policymaking. Differences along these three dimensions help explain what aspects of Hansen's disease-related activism diffused from Japan to Korea. Tactics that had depended on Japan's relatively autonomous legal profession, homogeneous mainstream media, and volunteer-based activist tradition proved unfeasible in Korea, which has a less autonomous legal profession, more diverse media environment, and more professionalized activist sector.

Thus, I argue that the structure of the public sphere conditions which innovations get adopted in the receiving country. Although political structures and cultures may also affect the specific form of mobilization, the impact of key mediating institutions in the public sphere deserves more attention. To develop this argument, I draw together literatures on movement diffusion, legal mobilization, cause lawyering, and political communication. I examine the tactics and frames of the Japanese Hansen's disease movement, elderly Korean leprosy survivors' quest for redress from Japan, and the

domestic Korean Hansen's disease movement after reviewing what prior scholarship would predict about the extent of diffusion among these three movements. This article fits into the legal mobilization tradition of examining the indirect and direct effects of litigation on the construction and spread of legal claims and on grievance articulation processes, rather than just on movement outcomes (e.g., McCann 1994). More broadly, it sheds light on why some mobilizing tactics and frames spread and others do not.

Explaining the Extent of Movement Diffusion

Japan and Korea constitute an analytically interesting pairing in which to examine social movement diffusion because previous theories predict relatively extensive transmission of mobilizing tactics and frames. For example, scholars have suggested that geographic proximity and shared history facilitate cross-national transmission of ideas and practices (Strang and Soule 1998: 275; Petras and Zeitlin 1967). Indeed, since the ROK's founding, Korean decision makers in diverse fields have looked to Japan as a reference point when considering the adoption of new policies or ideas. Such learning abated with Korea's economic growth and democratization in the 1980s. Reforms enabled more public critiques of Japan's colonial subjugation of the peninsula from 1910 to 1945, and Japanese actions fuelled Korean perceptions that Japan lacks contrition for past wrongs. Despite its sensitivity, shared history also motivated cooperation among scholar-activists and lawyers from both countries in pursuit of restitution for Korean women forced into sexual slavery by the Japanese Imperial Army, wartime forced laborers, and Korean atomic bomb survivors through Japanese and Korean courts (e.g., Kingston 2013; Soh 2008; Toyonaga 2001; Underwood 2010).

Some scholars predict that such direct contacts or "relational" mechanisms would make diffusion more likely because of the level of trust and communication entailed (McAdam and Rucht 1993; Tarrow 2005; 2010: 211; Wang and Soule 2012: 1713). As discussed below, interpersonal connections played a crucial role in elderly Korean leprosy survivors' campaign for restitution from Japan. As Japanese and Korean lawyers jointly represented claimants, they shared their philosophies of lawyering, effective frames about survivors' right to redress, and battle-tested tactics and organizational forms from the earlier Japanese Hansen's disease movement. Hansen's disease-related activism, therefore, sheds light on how "brokerage" and professional collaboration promote the transnational diffusion of specific types of claims and collective action. The latest edition of Tarrow's (2011: 187) classic book, *Power in Movement*, notes that such "relational" mechanisms remain understudied.

Not only lawyers' direct collaboration but also Japan and Korea's relatively similar legal and political structures should have facilitated movement diffusion to Korea. Many diffusion studies emphasize that frames and tactics undergo the most adaptation if the sending and receiving institutional contexts differ (e.g., Roggeband 2010; Stobaugh and Snow 2010; Strang and Meyer 1993). But, partly due to Japanese colonial rule, Japan and Korea have relatively isomorphic legal and political structures (see Choi and Rokumoto 2007). Historically, both "strong states" discouraged legal recourse, especially in authoritarian Korea (Ginsburg 2001). National quotas on the number of attorneys limited citizens' access to legal representation, court delays were frequent, and damages were capped (Ginsburg 2007; Haley 1978). Korea's democratization in 1987 and the end of single-party dominance in Japan in 1993 opened policy-making processes in both countries to a wider array of voices (e.g., Smith 2000; S. S. Kim 2003). Structural reforms also provided new political tools to challenge bureaucratic decisions, and court-like bodies (e.g., ombudsmen or national human rights institutions) were established to receive citizens' complaints.³ Similar legal reforms in Korea and Japan increased the number of attorneys, revamped legal education, made court proceedings more adversarial and transparent, and expanded citizen participation in judicial processes through a quasi-jury system (Ginsburg 2004; Miyazawa 2013). As deterrents to litigation fell, the number of new administrative lawsuits rose, doubling in Japan and tripling in Korea from 1993 to 2010. Civil suits likewise grew in number, especially in Korea. Although neither legal system permits class action suits, the closest equivalent—collective lawsuits, called *shūdan soshō* in Japanese and *jipdan sosong* in Korean—has become more common and effective against the state. Judges in both countries have also loosened rules for standing and their interpretations of statutes of limitations in key rulings against the state. Such institutional similarities, as well as parallels in Japanese and Korean lawyers' professional organizations and training, should have encouraged cross-national learning among lawyers from both countries.

Finally, divergences in leprosy-related activism in Japan and Korea are puzzling because previous scholarship predicts diffusion among groups with similar identities and grievances. Japanese and Koreans affected by leprosy share identities as survivors of similar hardships. Before effective treatment became possible with the U.S. introduction of the drug Promin to East Asia after World War II, Japanese imperial authorities quarantined leprosy sufferers in

³ Japan enacted an Administrative Procedure Law in 1993, a Product Liability Law in 1995, and a Freedom of Information Law in 1999. Korea enacted the same three laws in 1996, 2002, and 1996, respectively.

state-run institutions, where many endured forcible vasectomies and abortions (Burns 2003). As colonial subjects, Korean patients in the island leprosarium established by the Japanese on Sorokdo experienced additional abuses, including forced labor, the use of vasectomies as punishment, and medical experimentation without patients' consent (Verification Committee 2005: 135; HCA 2002: 37). As in the United States, isolating leprosy sufferers remained official policy in Japan and Korea after World War II. In 1960, however, the World Health Organization (WHO) renounced such measures because experts had discovered that leprosy was not heritable and rarely contagious. Even so, Japan's Leprosy Prevention Law (LPL) mandated isolation until 1996.⁴ Roundups of leprosy sufferers and forced abortions and vasectomies also continued in Korea until the 1980s, although such measures were cut from the Infectious Disease Prevention Law (IDPL) in 1963 (NHRCK 2005: 67–83).⁵ The Korean government arguably made these revisions to reduce its financial burden rather than to conform to new international norms expounded by the WHO. And Korean leprosy survivors do not recall “even noticing the 1963 policy change.”⁶ Thus, although Japanese and Korean leprosy control policies differed on paper, people afflicted with leprosy experienced similar rights violations. Extensive ties between the countries' Hansen's disease communities—due partly to the large number of Japanese leprosy survivors who are ethnically Korean—led Korean leprosy survivors to start considering such suffering rights violations, as Japanese leprosy survivors had. Issue entrepreneurs often look to reference groups like this as they construct claims and claimants' identities (Kingdon 1984: 129–130; McAdam and Rucht 1993; Soule 1997). What, then, explains the different form leprosy-related mobilization took in Korea?

Questions about why some innovations are adopted but others are not lie at the core of many studies of diffusion (Soule 2004: 302). One recent synthesis of the literature specifies that ideational and behavioral content can diffuse in the context of social movements (Givan, Roberts, and Soule 2010b: 4). The former includes new ways of thinking, such as when leprosy survivors realized that they could frame past suffering as a rights violation and file legal claims for restitution, instead of just requesting enhanced welfare benefits. Another example of ideational content diffusing is when Korean lawyers imitated their Japanese colleagues by hoping that litigation would help leprosy survivors “forge a bond of sympathy (*gonggam*

⁴ *Rai Yobō Hō*, law no. 214, August 15, 1953.

⁵ *Jeonyeombyeong Yebang Beop*, law no. 308, February 2, 1954.

⁶ Interview with Kim Jeong-haeng, Self-Governing Council President, Sorokdo, August 14–15, 2009.

daega) with ordinary citizens . . . and thereby . . . recover their human rights” (Hanvit 2012). Behavioral content refers to tactics, including litigation, press conferences, petition drives, protests, lobbying, media appearances, and the participation of “directly affected persons” (*tōjisha* in Japanese/*dangsaja* in Korean). In the case of leprosy-related activism, ideational and especially behavioral content was adapted as it diffused from Japan to Korea through lawyers’ interactions.

As alluded to above, previous studies of diffusion have acknowledged that frames and tactics may need adjusting when they are transferred to a new context. Some scholars have called for more attention to agency and strategic choice in the adaptation, or the “vernacularization,” of imported innovations (Carruthers and Halliday 2006; Levitt and Merry 2009; Snow and Benford 1999). Others have emphasized institutional factors that increase the likelihood that innovations must be adapted for their new context (Roggeband 2010; Stobaugh and Snow 2010). Yet few studies have examined how the structure of the receiving country’s public sphere constrains strategic adaptation. Considering all the factors that would lead one to expect extensive diffusion, the Japanese and Korean Hansen’s disease movements constitute an ideal pair in which to assess the impact of the public sphere on movement diffusion.

My findings are based on 75 open-ended interviews in Japanese and Korean with lawyers, leprosy survivors, journalists, non-victim activists, scholars, politicians, and officials in Japan and Korea in 2007–2009 and 2012. In addition, I analyzed movement activities and documents, media coverage, legal briefs and rulings, government reports, and scholarly analyses in Japanese and Korean. Visits to leprosaria and their museums in both countries also helped me understand how leprosy survivors lived and how they had come to think of themselves as having a right to redress from the state. This multi-sited research was designed to accommodate the transnational and sometimes de-territorialized nature of the processes studied. The next section traces the spread of legal mobilization practices from Japan to Korea through three interrelated movements. For space reasons, I focus on explaining diffusion processes and Korean (not Taiwanese) adaptations of Japanese tactics and frames more than the outcomes of activism (for more see Arrington forthcoming; chap. 3).

The Japanese Origins of Hansen’s Disease-Related Activism in East Asia

East Asian leprosy survivors’ rights-based activism originated in Japan, where the state’s leprosy control policies had most overtly

violated the basic rights of people afflicted by the disease. The Japanese government only abolished its policy of institutionalizing leprosy sufferers in 1996, fully 36 years after the WHO had recommended ending such policies (see Sato and Narita 2003).⁷ In 1998, 13 survivors of the disease sued the Japanese government for having maintained such a medically unjustifiable and unconstitutional policy. A network of about 100 lawyers represented plaintiffs, amassed evidence against the state, mobilized supporters, captured media and public attention, and lobbied legislators. By 2001, the number of plaintiffs had swollen to nearly 1,000, or a fifth of all living Japanese leprosy survivors. With support from thousands of ordinary Japanese citizens, their historic campaign for compensation also transformed Hansen's disease communities across East Asia. Focusing on leprosy survivors' interactions with mediating institutions, this section traces the diffusion of frames and tactics from the Japanese movement through the subsequent transnational campaign for compensation from Japan before turning to Korea's domestic Hansen's disease movement.

Honing Frames and Tactics in Japan

Japan's abolition of the LPL in 1996 awakened leprosy survivors' rights consciousness, but Japanese Hansen's disease survivors' lawsuit filed against the state in 1998 received little publicity initially and faced opposition from within Japan's leprosy community. Many Japanese leprosy survivors, who had spent on average more than 40 years confined to leprosaria, worried that suing the state might jeopardize the food, shelter, and medical care they received from the state or rekindle prejudice against their families (Bengodan 2003: 51 ff). Some residents even tried to hamper the lawyers' work by denying them access to leprosarium photocopiers or meeting rooms (ASHDL 2002: 40). In deference to its members' divergent opinions, the National Council of Leprosarium Residents (NCLR) maintained a position of "watchful waiting" (*seikan*) toward the lawsuits until early 2001 (NCLR 2001: 133). The lawyers, therefore, encouraged plaintiffs to meet for mutual support. The resulting plaintiff groups (*genkokudan*) depended initially on their lawyers for tactical advice and logistical support, but gained their own voice as additional plaintiffs joined the case. They elected leaders who facilitated communication with their lawyers gave media interviews and served as spokesmen for the movement.

Yet Japan's mainstream news media, which privilege officials over outsiders as news sources (Freeman 2000), paid scant attention

⁷ *Rai Yobō Hō Haishi ni Kansuru Hōritsu*, law no. 28, March 27, 1996. The state offered one-time payments of approximately \$25,000 to anyone who left the leprosaria. Only 17 people accepted.

to the plaintiffs once they filed their first lawsuit in Kumamoto. Japanese mainstream outlets' penchant for covering the same stories as their competitors, or "competitive matching," further stymied the movement's appeals for public support (Westney 1996: 69). Hence, plaintiffs' lawyers sought support from local citizens and reporters whom they knew from previous legal campaigns for redress, including the lawsuits by methyl mercury victims in the nearby city of Minamata and victims of HIV-tainted blood products (see Upham 1987: chap. 2; Feldman 2000: chap. 4).⁸ Epitomizing Japan's "citizen participation style" activist tradition, the supporter groups (*shien dantai*) that formed near most of the 13 national leprosaria were single-issue, nonpartisan groups comprising about a dozen ordinary citizens each (Avenell 2009: 282; Steinhoff 1999). They worked with the lawyers and plaintiff groups to boost attendance at court proceedings and organize public events to retain visibility between court dates, which only occur once every month or two in Japan (as in Korea).⁹ Japan's local news outlets and relatively independent regional branches of national news companies ran stories of plaintiffs' suffering that increasingly captivated local audiences. But since Japan's homogeneous mainstream media proved "hard to break into," the lawyers "prioritized increasing plaintiffs' numbers and filed parallel lawsuits in Tokyo and Okayama."¹⁰

Amid divisions within the leprosy community and little publicity, the Japanese movement adopted three distinctive ideas and practices that amplified their challenge against the state and later diffused to Korea to varying degrees. As alluded to above, specific features of the Japanese public sphere—including the autonomy of attorneys, the mainstream media's homogeneity, and the prevalence of issue-specific citizen-activist groups—affected the form of activism in the Japanese Hansen's disease movement. First, in framing legal action, the movement emphasized that leprosy survivors had a right to claim redress from the state even though they still depended on the state for their livelihood and medical care. Since nearly all Japanese leprosy survivors still lived in state-run leprosaria and since almost 90 percent of Korean leprosy survivors still received welfare or disability benefits from the state, the notion of a *right* to redress became crucial to mobilizing efforts. This framing drew on Japanese citizens' movements, which had articulated a variety of new rights since the 1960s and demanded compensatory damages for their infringement (Feldman 2000: chaps.

⁸ Interview with Komatsu Hiroshi, professor and activist, University of Kumamoto, May 13, 2009.

⁹ Interview with Kunimune Naoko, lawyer, Kumamoto, May 15, 2009.

¹⁰ Interview with Yahiro Mitsuhide, lawyer, Fukuoka, May 12, 2009.

2–3; McKean 1981). The rights framing also helped leprosy survivors surmount the challenges that marginalized individuals face in naming the injustice they suffered, blaming someone for the injustice, and claiming redress (Felstiner, Abel, and Sarat 1980). Japanese leprosy survivors asserted this right by suing their government for violating their constitutional rights to dignity and freedom of movement.

Second, Japanese lawyers involved in the movement formed a lawyers' group (*bengodan*) that was nonpartisan, dedicated to the Hansen's disease issue, and sustained by lawyers' own time and money. Many of the lawyers had previously joined such groups in support of lawsuits by victims of pollution, dam and rail construction projects, atomic bombs, and defective drugs.¹¹ As usual, most of the hundred-odd lawyers signed on just as moral supporters, while the group's active core included an experienced and moderate lead counsel, several mid-career and more politicized secretary generals, and a number of younger lawyers for the grunt work. Through successive campaigns, such legal teams developed ways of dividing up tasks related to legal technicalities, media strategy, plaintiff relations, and lobbying.¹² But participants in the Hansen's disease movement noted that e-mail technology enabled the first truly nationwide coordination among plaintiffs' lawyers in such legal mobilization.¹³ As in previous campaigns, lawyers' activities extended well beyond the courtroom, which helped foster relationships of trust between lawyers and plaintiffs that strengthened the broader movement. Korean lawyers involved in leprosy-related activism later tried to adopt this organizational form.

Third, Japanese lawyers used tactics from their prior experiences with collective litigation against the state (see Kidder and Miyazawa 1993). To prevent the state from minimizing the plaintiffs' challenge, they combined litigation with extrajudicial activism as cause lawyers elsewhere have (Sarat and Scheingold 1998; Scheingold 1974: 131–147; Olson 1984). They aimed to turn a particularistic grievance related to an obscure disease into a social issue and gradually incite broad public outrage over the government's mistreatment of leprosy sufferers (see also Reich 1991). Although public outrage would not sway the judges in the three Hansen's disease lawsuits, it would put pressure on politicians to enact redress legislation. The plaintiff groups and local supporter groups facilitated this mixture of litigation and grassroots activism by providing the personal stories of suffering and the manpower to sustain activism between court dates, respectively. Lawyers who had

¹¹ Interview with Toyoda Makoto, lawyer, Tokyo, July 1, 2009.

¹² Interview with Yahiro Mitsuhide, lawyer, Fukuoka, May 12, 2009.

¹³ Interview with Noma Kei, lawyer, Tokyo, May 29, 2008.

participated in the Japanese Hansen's disease movement took these tactics with them when they traveled to Korea in 2003 to help mobilize elderly Korean leprosy survivors to seek compensation from Japan.

Korean Reactions to the Japanese Hansen's Disease Movement

Word of Japanese leprosy survivors' activism reverberated around East Asia in the late 1990s. One Korean leprosy survivor noted that he and others were "never even told about the 1963 reforms [to Korea's IDPL], but *everyone* in Korea's leprosy community knew about Japan's abolition of the LPL in 1996."¹⁴ Scattered news stories and letters from ethnically Korean residents of Japan's leprosaria to their Korean friends also brought news of the Japanese leprosy survivors' lawsuits to Korea. The landmark ruling against the state in Kumamoto in 2001 especially encouraged a new rights discourse among Korean leprosy survivors. Yet the tools for asserting their rights only became available after Japanese lawyers traveled to Sorokdo in 2003 to launch a transnational campaign for colonial era restitution.

Before the Japanese movement framed leprosy survivors' experiences as rights infringements, leaders in Korea's leprosy community had promoted self-reliance and dignity, rather than rights or redress. Partly, this philosophy emerged because the ROK government had lacked the capacity to handle its comparatively larger leprosy population.¹⁵ Korean leprosy survivors were encouraged to found their own villages rather than beg, in the belief that self-sufficiency could restore their dignity while sparing the state the expense of institutionalizing all leprosy sufferers (Lew 1992: 204). Local communities resisted such "resettlement villages" (*jeongchakchon*), often violently (NHRCK 2005: 58–61). As a result, most of Korea's ninety-odd resettlement villages are in remote areas. Villagers subsisted on poultry and pig farming. Today, 34 percent of Korea's leprosy population still lives in resettlement villages, while 57 percent live in ordinary society and 9 percent in leprosaria.¹⁶ The Hanseong Cooperative Association (HCA), an

¹⁴ Interview with Lee Se-yong, leprosy survivor, Chungcheongbuk-do, July 23, 2009.

¹⁵ The number of people affected by leprosy in Japan—a more developed nation—peaked at 30,359 in 1900 and fell to about 2,000 by 2012. Korea's less developed sanitation and public health infrastructures facilitated the bacterium's spread, delayed diagnosis, and contributed to Korea's larger leprosy population, which peaked at 37,571 in 1970 but fell to 12,323 (of whom fewer than 300 are bacterially active) by 2012. Japanese statistics from the Infectious Disease Surveillance Center. Korean statistics from the Korean Centers for Disease Control.

¹⁶ See the Korean Federation of Hansen Associations, <http://www.hansenkorea.org/> (accessed April 4, 2014).

organization of leprosy survivors, governed the villages until its bankruptcy in 2002. HCA leaders helped the state combat vagrancy among leprosy sufferers and encouraged affected people not to draw attention to their disease.¹⁷ In the 1990s, the HCA's president also cofounded IDEA International, which promotes dignity more than redress for leprosy survivors worldwide, and advocated that other countries' leprosy populations mimic Korea's resettlement villages.¹⁸

After the Japanese Hansen's disease movement, though, a new rights discourse emerged in Korea. In March 2001, for example, about 70 academics, journalists, pastors, and a few leprosy survivors cited Japanese inspiration when founding the Group of People Who Love Sorokdo (abbreviated *Sosamo*) to promote Korean leprosy survivors' welfare (S. Lee 2001). *Sosamo* members visited Japan in July 2001 to gather information about how the Japanese movement had won an official apology and generous compensation (D. Kim 2003). Afterwards, *Sosamo* discussed leprosy survivors' rights for the first time (Na 2001). In addition, the regional television station MBC Gwangju aired a documentary called "Ah, Sorokdo!" locally in late 2001 and nationally in early 2002. The documentary began with scenes of Japanese leprosy survivors celebrating the Kumamoto court's May 2001 ruling. Interviews with former Korean leprosy patients attested to both Japan's actions on Sorokdo before 1945 and Korean leprosy sufferers' postwar plight (E. Kim 2007: 116, 119–122). The HCA also organized an unprecedented conference on leprosy survivors' welfare in March 2002, just before Hanvit Welfare Association (*Hanbit Bokji Hyeophoe*, or Hanvit) succeeded the bankrupt HCA. *Sosamo* had largely ceased its activities by then, possibly due to internal dissent or resistance from the HCA, which wanted to ensure that only one organization represented Korea's leprosy population. But the conference's participants overlapped with *Sosamo*'s membership. At the conference, a Korean leprosy survivor specified how the ROK government bore responsibility for the suffering he and others had endured since 1948 (HCA 2002: 31–47). An ethnically Korean man from a Japanese leprosarium also explained why he became a plaintiff in one of the Japanese lawsuits and encouraged Korean leprosy survivors to take similar legal action in Korea (HCA 2002: 9–18). Yet Korea's leprosy population did not act on this new rights

¹⁷ Interview with Yu Jin-sang, former executive director of HCA, Seoul, February 7, 2009.

¹⁸ IDEA stands for the International Association for Integration, Dignity, and Economic Advancement. It was the first international organization comprised of persons affected by leprosy. Japanese leprosy survivors are only peripherally involved in IDEA. Interview with Jeong Sang-gwon, former HCA president, Seoul, July 24, 2009.

consciousness until Japanese lawyers visited Sorokdo in 2003 to help elderly residents try to claim compensation from Japan.

Japanese lawyers' transnational activism was catalyzed by an unprecedented and unplanned feature of Japan's 2001 Hansen's Disease Compensation Law. Passed within a month of Prime Minister Koizumi Junichirō's decision to succumb to public outcry and forfeit the state's right to appeal the Kumamoto District Court's ruling, the law pledged medical care and 8–14 million yen (about \$80,000–\$140,000) in compensation to every resident of Japan's leprosaria *without* requiring that they be Japanese nationals or denizens.¹⁹ This omission is surprising, considering that Korean atomic bomb survivors (*hibakusha*) had sued Japan for denying medical care to *hibakusha* who were not Japanese or living in Japan.²⁰ Yet Japanese lawmakers knew nothing about Japan's colonial leprosaria in Korea and Taiwan. Even Japanese leprosy survivors' lawyers only learned of colonial abuses on Sorokdo from a leftist Japanese historian who had supported the Japanese movement and persuaded several Japanese lawyers to go to Sorokdo in 2003. Elderly Sorokdo residents apparently also had "no idea about the implications of the Japanese law for them until the Japanese lawyers first visited."²¹

At an event for Korea's largest volunteer organization serving leprosy survivors in August 2003, the Japanese lawyer Tokuda Yasuyuki proposed publicly for the first time that elderly Sorokdo residents claim compensation from Japan. He personally apologized for Japan's past wrongdoing and argued that anyone who had been institutionalized in a Japanese leprosarium, including one in Japan's former colonies, had a *right to compensation* under Japan's 2001 Hansen's Disease Compensation Law.²² This interpretation of the 2001 law created an opportunity for progress on wartime compensation claims, which Japanese judges had repeatedly denied from Korean and Chinese forced laborers and sex slaves on the basis of international treaties and a 20-year statute of limitations (see Koga 2013). Tokuda and his Japanese colleagues warned that Tokyo would probably reject their claims, forcing them to file an administrative lawsuit. Elderly Korean survivors assented to the plan in October 2003. And in August 2004, after the Japanese Ministry of Health Labor and Welfare rejected the Koreans'

¹⁹ *Hansenbyō Ryōyōjo Nyūshoshani taisuru Hoshōkin no Shigo nado ni kansuru Hōritsu*, law no. 63, June 22, 2001.

²⁰ Interview with Kunimune Naoko, lawyer, Kumamoto, May 15, 2009.

²¹ Interview with Lim Du-seong, legislator and leprosy survivor, Seoul, February 5, 2009.

²² Text of Tokuda's speech, <http://www.5b.biglobe.ne.jp/~naoko-k/soroktorepo2.htm> (accessed January 23, 2014).

compensation claims, 117 filed an administrative lawsuit in Tokyo seeking to reverse that bureaucratic decision.²³

Transnational Legal Mobilization Spurs Movement Diffusion

Direct interactions among Japanese and Korean lawyers and plaintiffs during the ensuing transnational legal battle spread ideas and practices about legal mobilization from Japan to Korea. Korean lawyers, in particular, learned how to organize a lawyers' group dedicated to one cause, how to frame past suffering as a rights violation for which the state was responsible, and how to combine litigation with activism to prompt policy change. As described in this section, these ideas proved effective during elderly Korean (and Taiwanese) leprosy survivors' transnational campaign for compensation from Japan. But, as the next section will demonstrate, differences in the structure of the Japanese and Korean public spheres constrained later efforts to adopt these Japanese innovations in Korean leprosy survivors' campaign for redress from their own government.

Beginning in late 2003, about a dozen Japanese lawyers began meeting with Sorokdo residents to compile their applications for compensation from Japan.²⁴ The Korean leprosy community had learned to fend for itself since the Korean War and was therefore suspicious of outsiders, both Korean and especially Japanese. To earn future plaintiffs' trust, Japanese lawyers personally took claimants' depositions. One Sorokdo resident later admitted she was "impressed that Japanese lawyers were willing to work against their own country on her behalf."²⁵ Japanese lawyers received much support from the representative organization of Korea's leprosy community (Hanvit), but also aimed to always have a Korean lawyer present when taking claimants' depositions to raise awareness of leprosy survivors' plight within Korea's legal community.²⁶

But activating Korean attorneys was not easy. Indeed, one elderly leprosy survivor recalled being "disappointed" at how long it took Korean lawyers to mobilize.²⁷ One of the earliest Korean lawyers to participate, for example, stopped not long thereafter because he was too busy with other causes. And he even knew the

²³ Twenty-five elderly Taiwanese leprosy victims, who had been mobilized by the same Japanese lawyers, simultaneously filed suit. Although a fascinating parallel, the Taiwanese case is beyond the scope of this article.

²⁴ The Japanese lawyers' group's website is <http://www15.ocn.ne.jp/~srkt/> (accessed February 12, 2014). The Korean lawyers (the HHRLG) do not have a website.

²⁵ Interview with Kim Yong-deok, leprosy survivor, Sorokdo, August 14, 2009.

²⁶ Interview with Kunimune Naoko, lawyer, Kumamoto, May 15, 2009.

²⁷ Interview with Jang Gi-jin, leprosy survivor, Sorokdo, August 14, 2009.

difficulty of claiming compensation from Japan because he had supported Korean atomic bomb victims' transnational activism. Similarly, lawyers from the Gwangju branch of the progressive organization *Minbyeon* (Lawyers for a Democratic Society) joined the movement only temporarily. Some of them apparently complained that interns or legal secretaries, rather than attorneys like themselves, should perform the evidence collection and translation work. They were also busy with other causes. Instead of helping the movement, *Minbyeon's* Gwangju office pointed Japanese attorneys toward human rights lawyers in Seoul.²⁸ In spring 2004, therefore, a Japanese lawyer traveled to Seoul to invite the progressive lawyer Park Chan-un to visit Sorokdo. As an influential member of the Korean Bar Association (KBA) and *Minbyeon*, Park Chan-un had worked on human rights issues since the early 1990s, including sometimes with Japanese lawyers, but he knew little about leprosy. He agreed to visit Sorokdo, albeit with trepidation. The visit "totally changed" his mind, and he persuaded the KBA's Human Rights Committee (of which he was vice chair at the time) to study the Hansen's disease issue in Korea.²⁹

Together with Park Yeong-rip, a sympathetic fellow member of the KBA's Human Rights Committee, Park Chan-un formed the Hansen's Human Rights Lawyers' Group (HHRLG, or *Hansen Ingwon Byeonhodan*) in May 2004. This group would support both the campaign for compensation from Japan and the ensuing domestic Korean redress movement. Lawyers in the HHRLG modeled their group on a Japanese organizational form common to Japanese legal mobilization campaigns. Practicing what Hilbink called "grassroots cause lawyering," Japanese lawyers' groups are generally nonhierarchical and flexible, with members heavily involved in activism beyond the courtroom, focused on a single issue, and committed to empowering plaintiffs (Hilbink 2004: 681–690).³⁰ Close cooperation between the Japanese lawyers and plaintiffs in the Sorokdo lawsuit in Tokyo "left a particularly strong impression" on one member of the HHRLG because it contrasted with the norm in Korea, where "lawyers do most of the work and rarely communicate with plaintiffs about legal tactics."³¹ Although Korean lawyers' groups have supported numerous effective legal mobilization campaigns against the state (e.g., Hong 2011), their practices resemble what Hilbink called "elite/vanguard cause

²⁸ Interview with Cho Yeong-seon, lawyer, Seoul, February 11, 2009.

²⁹ Interview with Park Chan-un, lawyer, Seoul, June 4, 2008.

³⁰ Interview with Minaguchi Masumi, lawyer, Tokyo, May 30, 2008. Interview with Yasuhara Yukihiko, lawyer, Tokyo, May 26, 2008. Interview with Kunimune Naoko, lawyer, Kumamoto, May 15, 2009.

³¹ Interview with Lee Jeong-il, lawyer, Seoul, July 13, 2012.

lawyering” (2004: 673–681). By 2005, about 40 Korean attorneys, with an active core of 20, had joined the HHRLG *pro bono*. Some were ashamed of the ignorance of Korean activists and human rights lawyers like themselves about Korean leprosy survivors’ suffering. As Park Yeong-rip explained, “not only had Korean attorneys neglected the rights of Korea’s leprosy community, but it had also been *Japanese* lawyers who initiated the movement on behalf of *Koreans*.”³²

HHRLG members accompanied elderly plaintiffs to Tokyo for each court date and were registered as “translators” for the plaintiffs because they could not formally represent them in Japanese courts. By working beside Japanese lawyers and witnessing the efficacy of their activism in Japan, the Korean lawyers learned the mobilizing frames and tactics they would attempt to implement in the subsequent Korean movement. As in Japan’s Hansen’s disease movement, key tactics for the Japanese lawyers included foregrounding plaintiffs, capturing media attention and public sympathy, and leveraging public outrage to pressure elected officials and the state for policy change.³³ Although it was difficult for elderly Korean plaintiffs to attend court dates in Japan, the Japanese lawyers emphasized the importance of “putting the victims first” to mobilize public indignation against the state.³⁴ News photographs from 2005 show Korean plaintiffs in wheelchairs covered in sheets of handwritten notes from Japanese and Korean supporters. Small groups of Japanese citizens and ethnic Koreans in Japan’s leprosy community who had participated in the earlier Japanese movement remobilized. Additionally, press conferences after each court date enabled plaintiffs to appeal for support with personal stories of suffering. Plaintiffs’ lawyers also asked Japanese journalists, who had covered the Japanese movement and were thus already familiar with the issue, to write sympathetic stories.³⁵

Japanese public interest in the Sorokdo lawsuit surprised many Korean plaintiffs. As a result of prior leprosy-related activism, 97 percent of ordinary citizens polled in early 2003 had already heard of Hansen’s disease (MHLW 2003). One Korean plaintiff noted in mid-2005 that “[we] are going to win the case thanks to the Japanese” (Gil 2005b). Between February and October 2005, the transnational movement collected 142,165 Japanese signatures calling on Japan to compensate colonial era claimants, as compared to

³² Interview with Park Yeong-rip, lawyer, Seoul, August 20, 2009.

³³ Interview with Akyukyo Machiko, lawyer, Tokyo, May 30, 2008. Interview with Kunimune Naoko, lawyer, Kumamoto, May 15, 2009.

³⁴ Interview with Itai Masaru, lawyer, Kumamoto, May 15, 2009.

³⁵ Interview with Esashi Masayoshi, *Mainichi Shimbun*, Tokyo, June 17, 2009.

135,263 Korean signatures in the same period.³⁶ By October 2005, there was so much interest in Japan that plaintiffs' lawyers established a lottery system, whereby supporters took turns watching court proceedings.

Korean public awareness of the transnational legal campaign only really took off after October 25, 2005, when different sets of judges in the Tokyo District Court handed down contradictory rulings. In the Taiwanese suit, the judges found that individuals who had survived Japan's colonial leprosarium in Taiwan were eligible for compensation under Japan's 2001 compensation law. In the Korean case, however, the judges ruled that Japan was *not* responsible for compensating leprosy patients from its former colonies. The latter decision prompted outcries from Japanese news outlets, opposition parties, interest groups, Japan's leprosy community, and the Union of Korean Residents in Japan. Two days after the rulings, Hanvit and Japanese and Korean lawyers also mobilized more than a thousand leprosy survivors to protest in downtown Seoul. Although many participants had not been in public for decades, they were angered by "the injustice of the unfair rulings in Tokyo."³⁷ A few lawyers and leprosy survivors also protested outside the Japanese Embassy in Seoul throughout the winter.³⁸

Yet nationalist resentment toward Japan, more than concern for leprosy survivors' rights, undergirded Korean public awareness of Hansen's disease, which peaked in late 2005. One Korean lawyer noted that the transnational movement was more of an "anti-Japanese" movement than a "Hansen's disease" movement.³⁹ Most Korean news outlets covered the demonstration in Seoul, and editorials accused the Japanese government of reopening colonial wounds. The KBA's letter to the Tokyo court also used nationalistic rhetoric to criticize the Tokyo court's uneven rulings as "discriminatory" toward Koreans. As a result, one leprosy specialist complained, Koreans did not understand the disease or believe that leprosy survivors' rights deserved respect.⁴⁰ Indeed, nearly 40 percent of respondents to a 2005 public opinion poll did not know that leprosy was treatable (Gil 2005b). Features of Korea's public sphere only exacerbated the challenges that such misperceptions created for the domestic Korean movement.

³⁶ Petition Report, <http://www15.ocn.ne.jp/~srkt/syomei.htm> (accessed February 12, 2014).

³⁷ Interview with Kim Jeong-haeng, Sorokdo Self-Governing Council President, Sorokdo, August 14–15, 2009.

³⁸ Interview with Lim Seong-a, secretary for IDEA Korea, Seoul, August 1, 2009.

³⁹ Interview with Park Yeong-rip, lawyer, Seoul, August 20, 2009.

⁴⁰ Interview with Chae Gyu-tae, leprosy doctor, Seoul, January 30, 2009.

Meanwhile, the transnational movement leveraged publicity and public indignation in Japan and Korea to push Tokyo to find a political solution to the contradictory rulings regarding colonial era leprosy survivors' lawsuits. It also persuaded the ROK government to call for Japanese compensation, in a boomerang fashion (Keck and Sikkink 1998). As a result, the Japanese Diet amended the Hansen's Disease Compensation Law in February 2006, rendering all colonial victims eligible for compensation.⁴¹ By 2012, nearly 600 elderly claimants had received 8 million yen (about \$80,000) each from Japan. Not only did transnational cooperation surrounding the Sorokdo lawsuit demonstrate effective frames and tactics, but it also brought compensation to Korea, which, as one lawyer noted, "seemed to heighten Korean leprosy survivors' rights consciousness and sense of political efficacy."⁴²

Innovations from Japan in the Korean Hansen's Disease Movement

As elderly Korean leprosy survivors' battle for compensation from Japan moved into the courts in 2004, the Korean HHRLG began working with Hanvit to hold the ROK government accountable for mistreating and neglecting Korean leprosy sufferers in the postwar era. Prior scholarship would predict extensive diffusion from Japan to this domestic Korean movement, especially due to the ongoing collaboration for compensation from Japan. Indeed, the Korean movement articulated a right to redress with the help of the HHRLG, which modeled itself on a Japanese organizational form. But the Korean movement initially asserted that right through legislative rather than judicial channels. And unlike in the Japanese movement, relatively few ordinary leprosy survivors participated in activism. In part, Hanvit's need to secure benefits for its members and Korean lawyers' pessimism about the possibility of winning a lawsuit against the ROK government due to its 3-year statute of limitations explain such deviation from the Japanese model. Yet, as this section demonstrates, features of the Korean public sphere also limited the feasibility of innovations from Japan. In particular, the politicization of Korean cause lawyers, professionalization and centralization of the Korean activist sector, and diversity of Korea's media environment contrasted with Japan's grassroots cause lawyering tradition, volunteer-based model of activism, and homogeneous mainstream media, which had rendered the Japanese legal mobilization template so effective.

⁴¹ *Hansenbyō Ryōyōjo Nyūshosha nado ni taiseuru Baishōkin no Shigo nado ni kansuru Hōritsu no Ichibu wo Kaisēi suru Hōritsu*, law no. 2, February 10, 2006.

⁴² Interview with Park Yeong-rip, lawyer, Seoul, August 20, 2009.

Activism without Litigation or Broad Mobilization

The domestic Korean movement began with a symposium at the National Assembly building in Seoul in October 2004. Park Chan-un, a founder of the HHRLG, organized the symposium to raise awareness about the ROK government's responsibility for leprosy survivors' postwar suffering. As their Japanese counterparts had, Korean leprosy survivors spoke (albeit anonymously) about the forced vasectomies and discrimination they had endured. Participants also emphasized that "Hansen's disease was a social problem, not just a medical problem."⁴³ With several hundred attendees, the symposium was one of the largest public gatherings of leprosy survivors ever in Korea. Compared to their Japanese counterparts, however, ordinary leprosy survivors participated less in the ensuing movement, which did not initially involve litigation against the state.

Instead, the symposium spurred two developments in 2005: an inquiry by the quasi-governmental National Human Rights Commission of Korea (NHRCK) and a legislative effort to aid Korean leprosy victims. These initiatives, which proceeded entirely independently, illustrate the top-down character of mobilization in Korea. In addition to choices made by movement leaders, characteristics of the mediating institutions in Korea's public sphere help explain why leprosy-related mobilization looked so different in Korea. For example, HHRLG actions were conditioned by Korean cause lawyers' comparatively deeper integration with the political establishment—especially under President Roh Moo-hyun (2003–2008), who was a cause lawyer and member of *Minbyeon*. Since Park Chan-un happened to have been named director general of the Human Rights Policy Bureau at the NHRCK in late 2004, he used his position to launch an inquiry into leprosy survivors' human rights since 1948 (NHRCK 2005). He hoped that it would catalyze redress legislation.⁴⁴ The HHRLG thus leveraged the insider access Korean cause lawyers had gained because they had "become the establishment" through effective reform campaigns since democratization (Ginsburg 2007: 54–55; Goedde 2009). By contrast, Japanese lawyers had used litigation, plaintiff mobilization, and public outrage to pressure the state from outside the establishment. Compared to the NHRCK inquiry, Japan's multi-year inquiry consequently had a greater mandate and more resources, included leprosy survivors on it, and investigated state wrongdoing already acknowledged in the Kumamoto ruling and subsequent apology and compensation legislation.

⁴³ Interview with Cho Yeong-seon, lawyer, Seoul, February 11, 2009.

⁴⁴ Interview with Park Chan-un, lawyer, Seoul, June 4, 2008.

In addition, by the time the NHRCK report was released in December 2005, progressive lawmaker Kim Chun-jin had already submitted a Law Concerning the Investigation of Hansen's Disease Victimization Incidents and Living Assistance for the Victims (nick-named the Special Law) to the National Assembly.⁴⁵ Some HHRLG members urged the legislator to wait and use the NHRCK's anticipated findings to push for more generous compensation (Gil 2005a). But by April 2005, Kim's staff and Hanvit officers had drafted the Special Law. Hanvit officers had considered "the legislative route more expedient than litigation for obtaining state support for Korea's aging leprosy population."⁴⁶ Characteristic of Korea's comparatively professionalized and centrally run advocacy model (S. J. Lee and Arrington 2008; Third Sector Institute 2006: 80), Hanvit also limited the number of people involved in the legislative process.⁴⁷ In repeated meetings with the legislator and his staff, but not HHRLG members, Hanvit officers demanded compensation, an official apology, and public activities to restore leprosy victims' honor (*myeongye hoebok*) as Japanese claimants had. Without the leverage that litigation and broad mobilization had given the Japanese movement over its political allies, however, Hanvit failed to prevent the lawmaker from deleting specific budget items and statements about the state's liability to increase the bill's likelihood of passing.⁴⁸ As a result, scholars, journalists, and lawyers involved in the movement stopped supporting the Special Law in 2006. The HHRLG particularly noted how it fell short of Japan and Taiwan's Hansen's disease compensation laws (Hanvit 2009: 61–66). Even the Hanvit officer most closely involved in drafting the bill called it "insufficient."⁴⁹

The NHRCK and legislative initiatives involved rank-and-file members of Korea's leprosy community less than had been the case in the Japanese movement. Although fear of prejudice deterred leprosy survivors in both countries from mobilizing, the absence of a lawsuit meant that Korean leprosy survivors were also not mobilized and empowered as their counterparts had been through Japan's plaintiff groups. Separate plaintiff groups would have probably been anathema to Hanvit, which is more hierarchical than Japan's NCLR and derives influence from being the sole voice of Korea's leprosy community.⁵⁰ Indeed, Hanvit "seemed reluctant to

⁴⁵ *Hansenin Pihaeja Sageoneui Jinsang Gyumyeong mit Pihaeja Saenghwal Jiwon deunge Gwanhan Beopryul*, law no. 8644, October 17, 2007.

⁴⁶ Interview with U Hong-seong, Hanvit, Seoul, January 30, 2009.

⁴⁷ Interview with Cho Yeong-seon, lawyer, Seoul, February 11, 2009.

⁴⁸ Interview with Yu Gyeong-seon, Seoul, August 19, 2009.

⁴⁹ Interview with U Hong-seong, Hanvit, Seoul, January 30, 2009.

⁵⁰ Interview with Jung Keun-shik, SNU professor, Seoul, January 19, 2009.

let other organizations help champion leprosy survivors' rights."⁵¹ While small supporter groups had facilitated Japanese plaintiffs' activism, Korean leprosy survivors lacked such support. This stems partly from the character of Korea's civil society sector, which tends to be made up of professionals and activists "for the grassroots masses," rather than of "movements of the grassroots masses" (Jeong 2000). In addition, by using their legal expertise and political connections to achieve the NHRCK inquiry, Korean lawyers followed Korean cause lawyering norms (Goedde 2011) more than their Japanese colleagues' model of integrating victims into activism to attract public sympathy. Unlike in the Japanese and transnational movements, the Korean movement focused more on its leaders' activities than on publicizing ordinary leprosy survivors' stories. And coverage of the seemingly unjust rulings in Tokyo in late 2005 and related protests overshadowed the Special Law's submission to the National Assembly and the NHRCK report's release. As a result, Hanvit's leader bemoaned the fact that Korean society could "get behind us on the Hansen's disease issue to 'settle the past' with Japan, but then ignore the Hansen's disease issue in Korea—our own history!" (Gil 2007).

Since ordinary leprosy survivors were relatively uninvolved in the domestic movement, they had little sense of what the Special Law meant for them when it finally passed in late 2007.⁵² In fact, efforts to revise the unsatisfactory law began before it went into force in late 2008. Hanvit President Lim Du-seong's election to the National Assembly in May 2008 gave the movement an insider position from which to push for revisions. As in the first legislative initiative, therefore, ordinary leprosy survivors felt they "had little input in the revision process."⁵³ Likewise, while Japan's prime minister had apologized in 2001 in response to broad plaintiff mobilization and public outrage, Korea's prime minister expressed condolences to the leprosy community on Sorokdo in 2009 because Lim Du-seong (also from the ruling conservative party) had personally asked him to.⁵⁴ Dissatisfied with yet another statement of condolence from a political figure, one Sorokdo resident hoped that "the Korean government would someday apologize as the Japanese government had."⁵⁵ When the revised Special Law was submitted in August 2009, it benchmarked Japanese legislation by calling for such an apology, as well as compensation, a broader inquiry into

⁵¹ Interview with Gil Yun-hyeong, *Hankyoreh*, Seoul, January 22, 2009.

⁵² Interview with Chae Gyu-tae, leprosy doctor, Seoul, January 30, 2009.

⁵³ Interview with Gang Chang-seok, leprosy survivor, Sorokdo, August 15, 2009.

⁵⁴ Interview with Han Seung-su, former ROK prime minister, Cambridge, October 22, 2010.

⁵⁵ Interview with Kim Yong-deok, leprosy survivor, Sorokdo, August 14, 2009.

past abuse, and public education campaigns to reduce prejudice against leprosy survivors. But the revised bill became void later that year when Lim Du-seong was arrested for corruption.

Returning to the Japanese Legal Mobilization Model

After efforts to revise the Special Law failed, Hanvit's new leadership and the HHRLG revisited the idea of suing the ROK for state compensation (*gukka baesang*) following the Japanese legal mobilization model. They sensed a lack of momentum behind the commission established by the Special Law to verify claimants' victimhood.⁵⁶ By 2011, it had processed only a fraction of the applications received, and the Ministry of Health and Welfare (MOHW) had yet to distribute any funds to recognized victims. Moreover, a Supreme Court ruling in early 2011 in a similar case of past state wrongdoing indicated that HHRLG members could argue that the statute of limitations on seeking state compensation—set at 3 years from when claimants discover their injury—began when the Special Law defining leprosy survivors as victims went into force in 2008.⁵⁷ Thus, they prepared to sue before October 2011, when the 3 years ended. Represented by HHRLG members, 207 victims of forced vasectomies and abortions filed a collective lawsuit against the ROK government, seeking 30 million won (about \$26,000) in damages for each vasectomy victim and 50 million won (about \$44,000) for each victim of a forced abortion. The plaintiffs' lawyers persuaded the state to waive the filing fee and, like their Japanese counterparts, urged the court to conduct a speedy trial considering the plaintiffs' advanced age.

Due to the centrality of litigation in this new phase of mobilization, the HHRLG assumed a more equal role with Hanvit and took steps to follow Japanese lawyers' example. Normally, for instance, Korean cause lawyers disband legal teams after litigation, but the HHRLG persisted after the lawsuit for compensation from Japan ended.⁵⁸ Instead, as Japanese lawyers had after the HIV-tainted blood lawsuits of the 1990s, the HHRLG created a fund to continue to promote leprosy survivors' human rights by pooling their portion of Korean claimants' Japanese compensation after 2006. By agreement with their Japanese counterparts, HHRLG members involved in the Sorokdo lawsuit received 4 percent of each claimant's compensation, while the Japanese lawyers received another 4 percent and Hanvit received 2 percent. By the time the

⁵⁶ Interview with Park Yeong-rip, lawyer, Seoul, July 5, 2012.

⁵⁷ Interview with Cho Yeong-seon, lawyer, Seoul, July 13, 2012.

⁵⁸ Interview with Park Yeong-rip, lawyer, Seoul, July 5, 2012.

lawsuit was filed against the ROK in 2011, Korean lawyers' pooled commissions amounted to nearly \$2 million, which the HHRLG used to subsidize travel, research, and supplies and to pay an administrator.⁵⁹ About 10 HHRLG members worked *pro bono* on the new lawsuit, and they used the funds to support the difficult tasks of taking plaintiffs' depositions and compiling what little documentation of forced abortions and vasectomies had survived the fire in Sorokdo's archives in the 1970s.

Efforts to combine litigation with plaintiff mobilization and publicity to pressure the state, as the Japanese movement had, were stymied by features of Korea's mediating institutions. First, the lawyers wanted to "empower leprosy survivors to be actively involved in reclaiming their rights."⁶⁰ They traveled to resettlement villages and leprosaria every few weeks to meet with potential plaintiffs Hanvit had identified, answer questions about the lawsuit, and earn plaintiffs' trust as Japanese lawyers had. They also encouraged plaintiffs to testify in court. One plaintiff recalled crying as she testified about having been forced to have an abortion, but feeling that her "grievances were finally heard."⁶¹ Yet fewer than a dozen of the hundreds of plaintiffs attended any given court hearing. Whereas multiple court sites and supporter groups had helped Japanese plaintiffs overcome the challenges of age and disability to attend hearings, the Korean lawsuits were only filed in Seoul and plaintiffs had difficulty getting to the court from remote villages around Korea.⁶² Supporter groups, whose members attended Japanese court hearings to show strength, are a rarer organizational form in Korea's civil society. Moreover, despite the HHRLG's efforts to avoid the "elite/vanguard" form of cause lawyering that predominates in Korea, many plaintiffs reportedly "sensed little personal role in the legal battle and preferred to entrust it to the experts—the lawyers."⁶³

Second, plaintiffs' lawyers tried to attract publicity, the power of which they had witnessed while participating in the colonial era lawsuit in Tokyo.⁶⁴ At a press conference announcing the first lawsuit in 2011, for example, they had four plaintiffs speak about their past suffering and give interviews to major news outlets. One woman shared how she had been forced to abort her first pregnancy in 1972 and then have tubal ligation surgery when she became pregnant a second time (Shin 2011). But the few reporters

⁵⁹ Interview with O Ha-na, HHRLG administrator, Seoul, July 1, 2012.

⁶⁰ Interview with Lee Jeong-il, lawyer, Seoul, July 13, 2012.

⁶¹ Telephone interview with Ms. Kim, leprosy plaintiff, July 13, 2012.

⁶² Interview with Cho Yeong-seon, lawyer, Seoul, July 13, 2012.

⁶³ Interview with U Hong-seon, Hanvit, Seoul, July 11, 2012.

⁶⁴ Interview with Lee Jeong-il, lawyer, Seoul, July 13, 2012.

who attended the hearings held once every few months lost interest due to the dearth of “new” news and the lack of visible plaintiff mobilization.⁶⁵ Unlike in Japan’s more homogeneous mainstream media, what little coverage the lawsuits attracted also reached relatively small audiences in Korea’s politically polarized and segmented media environment (S.-J. Lee 2005: 118–121). To attract more publicity, the HHRLG mobilized an additional 221 plaintiffs, who filed a second lawsuit in January 2012, but coverage was shortlived. The HHRLG also hosted the 2012 annual international symposium with Japanese and Taiwanese lawyers involved in leprosy-related activism. The symposium drew attention to the Korean lawsuits by discussing the forced vasectomies and abortions leprosy survivors had endured in all three countries.

Although this expanded legal mobilization continues to involve few plaintiffs and receive little attention in Korea, it did elicit some concessions from the state. In early 2012, the MOHW doubled the number of staff working for the commission that recognizes victims, extended the cut-off date for applications, expanded the range of incidents that count as victimization, and agreed to grant anyone recognized as a victim—whether or not they already receive state aid—150,000 won (about \$135) per month.⁶⁶ By the time the commission finished reviewing the 10,000 applications it had received in mid-2013, it had recognized about 6,500 applicants as “victims”, of whom about 4,000 were still alive. But the state has yet to admit responsibility for violating Korean leprosy survivors’ rights in the past. As of mid-2014, Hanvit, which was renamed the Korean Federation of Hansen Associations (*Hanguk Hansen Chong Yonhaphoe*) in 2013, continues to work alongside the HHRLG on the two lawsuits concerning forced abortions and vasectomies and on activities to prejudice against people affected by leprosy.

Conclusion

Focusing on the diffusion of leprosy-related activism from Japan to Korea, this article analyzed how and why mobilizing frames and tactics differed in these movements, despite conditions that prior scholarship would consider conducive to diffusion. These findings highlighted the importance of the structure of each country’s public sphere in transnational diffusion processes. Although features of the political systems and cultures of both countries contributed to such divergence, I focused on the effects that differences in the sending

⁶⁵ Interview with Cho Yeong-seon, lawyer, Seoul, July 13, 2012.

⁶⁶ Interview with a MOHW official, Seoul, July 9, 2012.

and receiving countries' mediating institutions had on the feasibility of imported innovations for social movements. Specifically, the legal profession, news media, and activist sector structured the public sphere in ways that conditioned what frames and tactics got accepted. The Japanese movement and the subsequent transnational battle for colonial era compensation from Japan both used litigation to marshal public pressure on the state for compensation. Lawyers' groups mobilized plaintiffs, cultivated grassroots support and publicity, and turned legal claims for redress into broad-based movements. Japan's autonomous cause lawyers, volunteer-activist tradition, and homogeneous mainstream media contributed to the effectiveness of these frames and tactics. In contrast, Korea's more hierarchical organization of leprosy survivors (Hanvit) and human rights lawyers used their political connections to pursue special legislation without first suing the state. Rank-and-file Korean leprosy survivors also participated less in activism than their Japanese counterparts had, even after the Korean movement resorted to litigation in 2011. The feasibility of Japanese tactics was limited by Korea's comparatively more politicized cause lawyering tradition, professionalized and centralized advocacy sector, and diverse and segmented media environment. Although rights-based activism gave Korean leprosy survivors a "growing awareness of [their] rights as citizens and human beings," it has yet to yield the redress that the Japanese Hansen's disease movement did.⁶⁷

Future research should continue to explore the effects of a society's mediating institutions on the extent and timing of movement diffusion. The spread of leprosy-related activism to Taiwan represents a good case in which to test my argument about the structure of the receiving country's public sphere. Like Korea, Taiwan's media environment is diverse and segmented, its activist sector has weak links to the grassroots, and its cause lawyers were politicized during the process of democratization. In addition, although the cause lawyering literature contains excellent studies of transnational networks among activist lawyers (e.g., Hajjar 1997; Sarat and Scheingold 2001), research into the effects of a country's mediating institutions—including the legal profession, as I have—would help clarify the mechanisms by which lawyers collaborate across borders. It would also elucidate how these lawyers' embeddedness in national professional contexts and the broader public sphere affects the way they transmit and translate legal mobilization practices. The spread of leprosy-related activism in East Asia indicates that differences between the sending and receiving countries' public spheres confound even determined innovators' efforts to adopt imported mobilizing frames and tactics.

⁶⁷ Interview with Kang Chang-seok, leprosy survivor, Sorokdo, August 15, 2009.

More broadly, differences between the Japanese and Korean Hansen's disease movements illuminate the ways in which characteristics of a country's mediating institutions affect not just transnational diffusion but also the contested process of making legal claims. To convince different audiences of the validity and salience of their claims, grievance groups depend on a supporting cast of journalists, concerned citizens, and cause lawyers. These key players in the public sphere mediate among competing claims by affecting how the public and political elites perceive, parse, and prioritize information. Characteristics like lawyers' autonomy, activist groups' level of professionalization, and the media's diversity are rarely static or acknowledged, but they are part of the historically developed organizational structures and norms that shape how members of these mediating professions act and think, especially toward claimants. Even in this era of global convergence and inter-change, the way mediating institutions structure the public sphere varies cross-nationally because national political cultures and institutions foster distinctive patterns of social interaction and individual behavior over time (see Fourcade 2009). As such, the structure of each country's public sphere may help account for apparent cross-cultural differences in societies' abilities to sympathize with certain claimants. Since attracting public and political support lends leverage to relatively powerless claimants (e.g., Burstein, Einwohner, and Hollander 1995; Lipsky 1968), sociolegal researchers should continue to investigate the interactions of a country's mediating institutions with other actors in legal mobilization processes. By analyzing how the structure of a country's public sphere conditions transnational movement diffusion, this article indicates that grievance groups must work through, with, and sometimes around their society's mediating institutions to be heard.

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