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THE LEGACIES OF STATE CORPORATISM IN KOREA: REGULATORY CAPTURE IN THE SEWOL FERRY TRAGEDY

Abstract

Regarding the causes of the Sewol ferry accident that claimed 304 lives in April 2014, some scholars have blamed neoliberal reforms such as deregulation and privatization for the safety regulatory failure. Others have highlighted the role of industry influence and corruption. Our analysis shows that regulatory capture was the crucial causal factor; moreover, this capture was institutionalized from the state-corporatist arrangements of the authoritarian period rather than reflecting new arrangements under the democratic era or corruption per se. The delegation of the critical safety regulation enforcement to the shipping industry association was not introduced as a neoliberal reform but in the context of state corporatism of the Park Chung-hee regime. Democratic governments continued to protect the monopoly of the lucrative Incheon–Jeju ferry business, contrary to neoliberal logic. The legacies of state corporatism persist despite post-financial crisis reform.

Keywords

Sewol ferry accident, disaster, neoliberalism, regulatory capture, state corporatism, post-financial crisis reform, South Korea

INTRODUCTION

The sinking of the Sewol ferry on 16 April 2014 claimed 304 lives, mostly high school students who were on a school excursion trip to a resort island of Jeju. The event raised serious questions about marine safety and the role of the state in Korea. It was clearly a man-made disaster. The capsizing of the passenger ship could have been avoided had the safety regulations been properly observed. The lives of many, if not all, of the passengers killed could have been saved had there been effective rescue operations. How could the vessel be allowed to sail with so many violations of the safety protocol, including cargo overloading, insufficient ballast water and risky modifications to the vessel? Why did the captain and crew of the Sewol escape and abandon the vessel when passengers were still aboard, and why was the Coast Guard so incapable and hesitant at the scene of drowning passengers trapped inside the sinking ship? What were the structural deficiencies that brought about negligence of such magnitude?

South Koreans were appalled and outraged by their government's gross failures in safety regulatory enforcement and rescue operations as well as the blind pursuit of profit by the Cheonghaejin Marine Co. Ltd., the owner of the Sewol ferry, at the

expense of public safety. The tragedy led to a national soul-searching about its causes. Two major political economy explanations, in addition to cultural explanations, have been proposed: corruption and neoliberalism. While we do not discount the role of safety-insensitive culture in Korean society in the Sewol tragedy, our main concern is with questions of political economy.

The public blamed corruption for the safety regulatory failures (Hong 2014; Roh 2014). While there was evidence of pervasive collusion between the government regulators and the regulated business, little evidence was found for outright corruption. Close ties between government officials in charge of marine safety regulations and rescue operations and the passenger shipping industry soon became evident, as it was revealed that retired bureaucrats occupied the bulk of the top positions at the industry association and related private entities through “parachute appointments.”¹ Terms such as *Gwan-fia* (bureaucratic mafia) and *Hae-fia* (sea mafia) were widely used to refer to the collusive ties between the bureaucrats and the businesses to be regulated. The public suspected that corruption must have sustained such collusive relations between them. However, the prosecution failed to find much evidence for corrupt transactions in the usual sense of exchange of bribes and favors. This raises questions about how parachute appointments have become so prevalent and how collusive ties led to regulatory failures.

On the other hand, some scholars have blamed neoliberal reforms such as deregulation and privatization for the safety regulatory failure (Ji 2014; Lee forthcoming; Oh 2014; Suh 2014; Woo 2014). The extension of passenger ships’ age limit from 25 to 30 years that had been introduced during the Lee Myung-bak administration came under severe public criticism. The Cheonghaejin would not have purchased an 18-year-old ferry that had been retired from service in Japan without the deregulation of passenger ships’ maximum life. This was considered evidence of neoliberal deregulation causing the accident. In addition, the delegation of authority for important safety regulation enforcement to private entities such as the shipping industry association was harshly criticized by the public. The industry self-regulatory scheme was seen as evidence of neoliberal privatization of state function. Furthermore, the public-private partnership scheme in rescue operations was considered evidence of privatization of the state function leading to the dismal failure.

In contrast, this paper finds that the role of neoliberal reforms in causing the tragedy was rather limited. For example, the extension of ship age limit would not have caused the accident had the basic safety regulations such as cargo limit and ballast water requirement been properly enforced. The industry self-regulatory scheme was first introduced in the 1970s, long before the onset of neoliberal reforms.

We provide an alternative explanation to those focusing simply on corruption or neoliberal reform. We argue that “regulatory capture” was the crucial causal factor. We further argue that this capture was institutionalized from the state corporatist arrangements of the authoritarian period rather than reflecting new arrangements under the democratic era or corruption per se.

While corruption, neoliberalism and capture are not mutually exclusive explanations for the Sewol tragedy, we would expect different sets of evidence in each case. For the corruption explanation there should be evidence of bribes; for the neoliberalism explanation evidence of deregulation, privatization, and liberalization in the ferry market; and for the regulatory capture explanation evidence of regulatory policy-making and

TABLE 1 Comparison of three explanations for the Sewol tragedy

Explanation	Expected evidence	Our findings
Corruption	Exchange of bribes and favor	<ul style="list-style-type: none"> • Little evidence
Neoliberalism	Deregulation	<ul style="list-style-type: none"> • Extension of ship age limit was just one of many causes of the accident.
	Privatization	<ul style="list-style-type: none"> • Industry self-regulation was not the result of privatization but a corporatist legacy. • Public-private partnership in rescue operations was a disguised corporatist arrangement rather than the result of privatization of state functions.
	Liberalization	<ul style="list-style-type: none"> • Ferry markets were not liberalized; protection of monopolies was a corporatist legacy.
Regulatory capture	Capture of regulatory policy-making	<ul style="list-style-type: none"> • Both regulation (market entry) & deregulation (ship age limits) were directly influenced by the industry.
	Capture of regulatory enforcement	<ul style="list-style-type: none"> * Vessel operation managers were controlled by the shipping industry due to prior corporatist arrangements. * Parachute appointments created conflict of interests, leading to collusion and capture; these appointments were a corporatist legacy.

enforcement being directly influenced by the ferry industry at the expense of public safety. As Table 1 shows, we found surprisingly little evidence of outright corruption and a rather limited role of neoliberal reforms in causing the tragedy. Instead, we found ubiquitous evidence for regulatory capture: regulatory policy-making and enforcement have been increasingly captured by the ferry industry.

As the table indicates, there was confusion about whether the private delegation of safety regulatory authorities and some features of public–private partnership in rescue operations were introduced as neoliberal reforms or in the context of state-corporatist arrangements. Hence, we conduct careful “process tracing” in order to examine the roles of neoliberal reforms and state-corporatist arrangements in causing the regulatory failures. Process tracing, or causal process observation, allows us to find empirical evidence for the causal processes (Bennet and Checkel 2015).

Based on a variety of primary and secondary source materials—including media and government reports of the Sewol incident; earlier and current versions of the laws and rules governing marine safety;² and archival documents of the government and the marine industry—our process tracing provided compelling evidence for the regulatory capture and state corporatism explanation. The delegation of safety regulatory authorities to the shipping industry association was first introduced in the context of state corporatism of the Park Chung-hee regime. The persistence of corporatist arrangements has led to pervasive government–business collusion and regulatory capture. What looked like privatization of rescue operations was not really privatization but collusion between the Korean Coast Guard and the marine industry based on a disguised corporatist

arrangement. Contrary to neoliberal logic, democratic governments continued to protect the monopolies in the ferry industry through entry regulation. The fact that both continued regulation of market entry and deregulation of ship age limit were directly influenced by the industry constitutes evidence of capture.

There have been few studies of state corporatism in Korea, and the state-corporatist features of the authoritarian developmental state were largely neglected by the literature on Korea's political economy.³ Our study, however, highlights the long-lasting legacies of the state-corporatist arrangements from the authoritarian period. While previous literature on Korea's government-business relations has focused on the government's relationship with the *chaebol* and banks at the national level, our study shows the importance of state-corporatist organization of interest mediation and regulatory arrangements at the industry level by the authoritarian developmental state. The practices of parachute appointments were institutionalized in this context, creating conflict of interests for the regulators and leading to collusion and capture.

In the next section, we briefly review the literature on the political economy of disasters. We then discuss state corporatism of the Korean developmental state and the neoliberal reforms implemented after the financial crisis of 1997. In the following section, we will examine various factors that contributed to the Sewol ferry accident and the dismal failure of rescue operations. Then, we will scrutinize through process tracing how these factors came into play and were institutionalized within the Korean political economy context, focusing on the role of state corporatism and neoliberal reforms. The concluding section will summarize our findings and discuss policy implications.

THE POLITICAL ECONOMY OF DISASTERS

The literature has broadly proposed four kinds of explanations for man-made disasters: high-risk complex technology, corruption, capture, and neoliberalism. Charles Perrow's *Normal Accidents* (1984) and Ulrich Beck's *Risk Society* (1992) emphasized the inherent risks of modern complex technology such as nuclear technology, yet this type of explanation does not seem relevant to the Sewol disaster.

Some scholars argue that corruption is an important cause of disasters. Corruption is often extensively involved in man-made disasters or accidents triggered by equipment/instrument failure and/or human error (Lewis 2011). Penny Green (2005) examined the role of corruption in magnifying the impact of earthquakes. Corruption is also found to be a significant factor in causing and aggravating maritime disasters. A notable study by Soliman and Cable (2011) analyzed the role of corruption in the 2006 sinking of an Egyptian ferry in the Red Sea, which killed 1,034 people. They found that high-level corruption not only caused the disaster but also exacerbated its impacts.

In the aftermath of the Fukushima nuclear accident in 2011, some studies have noted the role of "regulatory capture" in causing the accident (Howe and Oh 2013; Wang and Chen 2012). Regulatory capture means that regulatory agencies are being dominated by the industry to be regulated (Dal Bó 2006). Regulatory capture can lead to regulations such as entry regulation that favors the insiders, removing or relaxing social regulations at the expense of the public interest, or lax enforcement of regulations.⁴ Evidence of regulatory capture can be found in regulatory policy shifting away from the public interest towards industry interest, and in the action of the industry in pursuit of this policy shift being sufficiently

effective (Carpenter 2014). Also, the revolving door phenomenon can create conflict of interest for government regulators anticipating future employment in the regulated industry, making them vulnerable to capture (Makkai and Braithwaite 1992).

While regulatory capture or capture in general, including state capture, might be considered a form of corruption in a broad sense, corruption and capture are conceptually distinct. Corruption is typically defined as “abuse of *public office* (or entrusted power) for private gain,” while capture is defined as *private interests* influencing the state or public officials, via legal or illegal means, at the expense of public interest (You 2015, 23–30). Thus, capture can involve corruption, but not necessarily, and systemic corruption can lead to capture, but also not necessarily.

Wang and Chen (2012) argue that regulatory capture was a major cause of regulatory failure in the nuclear power sector in Japan. They further argue that Japan’s nuclear regulatory capture stems from its regulatory structure and “revolving door” practices. Japan’s Nuclear and Industrial Safety Agency is a division of the Ministry of Economy, Trade and Industry, which is also responsible for promoting the nuclear power industry. There is an inherent promoter–regulator conflict, which makes NISA prone to industry capture. In addition, revolving door practices such as Amakudari—retired government officials taking up lucrative positions in the private sector they oversaw—are most frequent in the nuclear power sector in Japan.

Some scholars have argued that neoliberal reforms are responsible for many disasters. They argue that neoliberal deregulation and privatization weaken both the content and enforcement of safety regulations. Neoliberalism is generally understood as radical market fundamentalism that emphasizes liberalization, deregulation, and privatization (Young 2011). Liberalization is to allow the unfettered cross-border movements of capital, goods, and services; deregulation is to remove government control of economic activities; and privatization transfers previously publicly provided services to the private sector.

Lauren Snider (2003) documented how neoliberal deregulation and the downsizing of the provincial government increased risks to human health and safety in a case study of contamination of the public water supply in Ontario, Canada. Penny Green (2005) noted that Turkey’s earthquake catastrophe was magnified due to the country’s liberalization and deregulation process as well as corruption. She found that sparse regulations and lax inspection encouraged the construction industry to build poor-quality housing vulnerable to earthquakes on formerly public lands that had been privatized. Soliman and Cable (2011) also argued that neoliberal reform was a contributing factor in the Egyptian ferry accident of 2006.

Studies of disaster in South Korea emerged in the 1990s after consecutive man-made accidents, such as the sinking of the Seohae Ferry (October 1993), the collapse of Seongsu Bridge (October 1994), and the collapse of Sampoong Department Store (June 1995). Recently, numerous studies have been conducted on the sinking of the Sewol Ferry.

Concerns over the adverse impact of corruption and collusion on creating accidents and exacerbating disasters have increased in the wake of the sinking of the Sewol ferry. Hong Sung-Tae (2014, 132) argued that the Sewol tragedy was not an *accidental* accident but a *normal* accident generated by the *corrupt* society of Korea. According to Hong (2014, 138), one of the striking similarities between the Namyong Ferry accident in 1970, which claimed 338 lives, and the Sewol Ferry accident in 2014 is that corruption

not only caused the sinking but contributed to the dismal rescue failure. However, his use of the term “corruption” is based on a broad definition that includes “collusion.”

Many Korean scholars blamed neoliberal deregulation and privatization for the Sewol tragedy. Jae-Jung Suh (2014), Ji Joo-Hyoung (2014), Lawyers for Democratic Society (2014), Woo Seok-Hoon (2014), and Yoonkyung Lee (2015) argued that the extension of the age limit for passenger ships from 25 to 30 years introduced in 2009 and the privatization of rescue operations implemented during the neoliberal Lee Myung-bak and Park Geun-hye administrations, were responsible for both the sinking and the rescue failure. They also argued that private delegation of regulatory authorities reflected the neoliberal state’s diminished role in safety regulation. They further suggested that increased employment of non-regular workforce due to labor market flexibility led to a decline of professional ethics, as exemplified by the captain’s and crew’s irresponsible behavior in abandoning the passengers trapped in the cabins.

Other studies of the Sewol accident claimed that multiple factors including corruption and neoliberal deregulation are responsible for the tragedy (Roh 2014). Choi Byung-Sun (2014) presented a unique perspective on the regulation–deregulation debate. He argued that the government’s unnecessary regulation of entry into the coastal ferry business that had protected the monopoly of the Cheonghaejin on the Incheon–Jeju ferry route, and delegation of safety regulatory enforcement to private entities were a recipe for disaster. Although Roh (2014) and Choi (2014) implicitly hinted at the problem of regulatory capture in the Sewol tragedy, no studies have so far rigorously discussed the problem of regulatory capture or the long-lasting influences of state corporatist arrangements.

STATE CORPORATISM IN KOREA’S POLITICAL ECONOMY

Corporatism is defined in many ways. Philippe Schmitter (1979) defined corporatism as “a system of interest intermediation in which a limited number of singular, compulsory, non-competitive, hierarchically ordered, and functionally differentiated interest groups are recognized by the state and granted a representational monopoly in exchange for certain controls.” He distinguished between state (or authoritarian) corporatism and societal (or democratic) corporatism. Corporatist arrangements can be made at the national (macro), sectoral (meso), or firm (micro) level. Meso-corporatism in the form of negotiated industrial policy may concern protectionist measures in exchange for self-regulatory actions, often imposed by the state. An essential precondition is the associational monopoly in the industrial sector (Cawson 1986, 114). Michael Moran (1990) defined corporatist regulation as the “exercise of regulatory functions by private institutions endowed with public authority.” Corporatist regulation can be considered a hybrid approach between direct government regulation and reliance on market forces, or no government regulation (Crouch and Dore 1990).

As Robert Wade (1990, 27, 294–5) noted, Park Chung-hee (1961–79), who oversaw South Korea’s rapid industrialization, reorganized the state–society relations according to the principles of state corporatism. His model was the pre-World War II Japanese state corporatism. Only one industry association for each industry was legally recognized as both a channel of monopoly interest representation and a tool of state control (Kim 1987; Kim 1998; Lee 2003; Park 1987).⁵ In addition, the Federation of Korean Industry, an association of chaebols, was created in 1961 under the blessing of the military junta.

While the FKI and individual chaebols were major partners of the state's industrial policy at the national level (macro-corporatism), industry associations played an important role in helping the government to formulate and implement industrial policies at the industry level (meso-corporatism). Whereas labor representation was marginalized or suppressed in corporatist arrangements at the national level, with a single peak organization of trade unions tightly controlled by the government, labor representation was virtually absent at the industry level (Choi 1989). Thus, the Korean developmental state was characterized as "state corporatism without labor," while Japan was closer to societal corporatism without labor (Pempel and Tsunekawa 1979).

The major role assigned to the associations by the state was to mobilize business sector support for government policy (Park 1987). They conducted various activities delegated by the government such as the registration of business, inspection and assessment works, and supervision and sanctions over members. Thus, they often acted as a state-sponsored cartel and also as a regulator on behalf of the government (Kim 1987; Kim 2005; Lee 2003, 104). In this context, presidential decree on delegation of administrative power was promulgated in 1970. During the 1970s, many administrative and regulatory programs were delegated to private entities, including industry associations (Han 1989). Moreover, the state intervened in the leadership selection of the business associations. At least it possessed *de facto* veto power on leaders chosen by the associations. Often the state arranged to give leadership posts to retired government officials as reward for past services, and the associations accepted these recommendations as a channel to government (Park 1987).

From the beginning, the close relations between the government and business were prone to rent-seeking and collusion. In particular, the practices of parachute appointments, or retired public officials taking leadership posts at state-sanctioned private interest groups, strengthened collusive ties between the government and the business. Over time democratization and economic liberalization weakened state control over business, but state protection of the large chaebols and industry associations continued with the development of collusive relations. When the Korean economy suffered a severe financial crisis after a series of chaebol failures in 1997, many observers pinned the blame on crony capitalism (Haggard 2000; Kang 2002; Moon and Mo 2000).

In the aftermath of the crisis, Kim Dae-jung government implemented sweeping reform of the financial sector and corporate governance, complying with the IMF-mandated neoliberal reform agenda (Haggard 2000; Moon and Mo 2000). While gradual liberalization of the Korean economy started during the Chun Doo-wan regime in the 1980s and somewhat accelerated with President's Kim Young-sam's globalization policy in the 1990s (Kim 1999; Moon 1994), it was only after the 1997 financial crisis that all the subsequent Korean presidents embraced neoliberal reforms such as deregulation and privatization. Kim Dae-jung and subsequent governments also experimented with societal corporatism (or democratic corporatism) at the national level, notably through the Tripartite Commission (Kong 2004). The Commission still exists today, but it has not been functioning since the first few months of its inception.

Students of Korea's political economy have different views about whether post-crisis reforms have fundamentally changed the developmental state. Some scholars claim that the Korean state has been radically transformed into a neoliberal state (Ji 2013; Kalinowski 2008; Lim and Jang 2006; Pirie 2012; Yeung 2014). Others argue that the developmental state is still alive, or at least that significant elements of it have remained intact (Jang 2014;

Kim 2012; Lim 2010; Park 2011; Stubbs 2009; Um, Lim and Hwang 2014). The latter group of scholars have noted various cases of state interventionist practices in Kim Dae-jung government's Big Deal for swapping of core businesses between major chaebols; professedly neoliberal Lee Myung-bak government's large-scale, state-led construction works such as the Four River Restoration Project; continued government influence on the supposedly independent financial supervision; and implementation of overt and covert industrial policies. Although these scholars have focused on the continuity of bureaucratic control, industrial policy, and chaebol dominance despite the rhetoric of liberalization and deregulation, they have paid little attention to the persistence of state-corporatist arrangements. Our study is located in the context of ongoing debate about the extent of neoliberal transformation and the enduring legacies of the authoritarian developmental state in Korea.

One area that shows continuity of the corporatist practices of the authoritarian period is the business associations. The Regulatory Reform Committee of Kim Dae-jung's government chose reform of regulations for business associations as one of its priorities. The Committee tried to transform the singular, compulsory and non-competitive characteristics of the associations into more plural, autonomous, and competitive arrangements. The results of the reform efforts were minimal or only partially successful, due to resistance from both the bureaucrats and business associations (SaKong and Kang 2001). Of the 37 business associations with legal requirement of the mandatory membership that received the Committee's attention in 1998, 23 still maintained the legal mandate at the end of 2000, according to SaKong and Kang (2001).⁶ Jin-soon Lee (2003, 104) noted that industry associations as state-sponsored cartel still exist despite the reform efforts. While government approval for leadership of the associations was no longer required by law, government approval for establishing business associations and changing their articles was still required by law for numerous associations (SaKong and Kang 2001). Also, the practice of retired civil servants taking up leadership positions in business associations was hard to reform. It seems that the rigor of regulatory reform for business associations soon subsided as collusive relations between the bureaucrats and business associations continued (Lee 2003; SaKong and Kang 2001).

THE DIRECT CAUSES OF THE SEWOL FERRY TRAGEDY

In this section, we analyze the direct causal factors for both the Sewol Ferry accident and the rescue failure. In order to identify the direct causal factors for the accident, we examine the lax regulatory processes: how Cheonghaejin was able to add the 18-year-old Sewol ferry to the Incheon–Jeju route, conduct a risky renovation of the ferry, make flawed operating rules, and pass the vessel safety operator's inspection before departing from the Incheon Port in spite of cargo overloading, insufficient ballast water and other safety violations. Likewise, we also analyze the direct causal factors for the rescue failure. In the next section, we will examine the background of these direct causal factors, focusing on the roles of state-corporatist arrangements and neoliberal reforms.

LEADING UP TO THE SINKING OF SEWOL FERRY

Among the Korean coastal shipping companies, the Cheonghaejin had the highest number of marine accidents during the last five years before the Sewol accident. In

fact, the Cheonghaejin-run ships had been involved in numerous accidents over the last 20 years (Lawyers 2014, 27; Yonhap News 2014a). Ironically, the Cheonghaejin was selected as one of the high-performance shipping companies in terms of customer satisfaction by the Ministry of Maritime Affairs and Fisheries (Yonhap News 2014b). The company obtained a favorable loan from the government-owned Korea Development Bank (Kwon 2014). Moreover, the company had enjoyed a monopoly over the lucrative Incheon–Jeju ferry route for 20 years until the Sewol tragedy.

When the company planned to purchase an 18-year-old ferry from Japan after the passenger ships' maximum life was extended from 25 years to 30 years starting in 2009, it fabricated documents required to obtain approval from the Ministry of Land and Sea Management for adding a second passenger ship on the Incheon–Jeju route (Lawyers 2014, 104). After importing the vessel, the company added new decks to maximize the number of passengers it could accommodate (Korea Maritime Safety Tribunal (KMST) 2014, 9–10). How could such excessive renovation beyond the vessel's safety capacity be approved? According to the Board of Audit and Inspection's report (BAI 2014), the Korean Register (KR), a private entity that had legal authority to inspect vessels on behalf of the government, approved all features of Sewol in spite of the Cheonghaejin's false reports on some important matters. Although the prosecution investigated allegations of corruption during these processes, they failed to find any evidence of bribery between the Cheonghaejin and the KR.

The next step was drafting operational management rules for the Sewol ferry and getting approval for them from the Korean Coast Guard. The prosecutorial investigations revealed that the Cheonghaejin had provided the Coastal Guard officials with dining and entertainment (SPO 2014). Although the screening committee found that some documents were missing or incomplete and requested them, the Coast Guard approved the Sewol ferry's operational rules without receiving additionally required documents (Lawyers 2014, 106).

Last but not least, the Sewol ferry's captain and crew violated many of the operational rules, including the limits on the maximum amount of cargo and the minimum amount of ballast water. At the time of the accident, the Sewol was carrying 2,142 tons of freight and cars, more than double the maximum capacity (KMST 2014, 34). The ferry had routinely been overloaded with the connivance of the regulatory authorities (SPO 2014, 8). The fall in passenger demand as well as the regulation for passenger fees led the ferry's operator, the Cheonghaejin Marine Co., to rely more on cargo revenue. To accommodate the excess weight, the crew removed more than half of the required ballast water, seriously impairing the vessel's stability (KMST 2014, 10). The crew did not even secure the cars and freights tightly, making the vessel further vulnerable in the event of a sudden change in course.

Surprisingly, before the departure of the Sewol from the Incheon Port, the vessel operating manager did not even check whether the ship had exceeded cargo limits. It was found to be a common practice: the vessel operating managers, hired by the Korean Shipping Association, were not required to physically check the vessel's conditions before embarkation but only to examine the report written by the captain (Lawyers 2014, 114–115). Even this rule was circumvented: the captain falsely reported by phone to the vessel operating manager the number of cars and the weight of cargo after departure, and the vessel operating manager filled out the form with the false numbers he received on the phone (Lawyers 2014, 114–115; SPO 2014, 8).

As a result, on the night of April 15, 2014, the passenger ship was put out to sea with key safety requirements grossly violated—cargo overloading, inadequate ballast water, improperly secured cars and freight. The next morning at around 8:48, the inexperienced third mate of the Sewol made a sharp turn in the sea route known for its fast currents while the captain was taking a rest. At that moment, the overloaded shipping containers and the loosely chained vehicles broke loose, lurching to one side of the vessel. Because of the reduced ballast water, the ferry could not restore its balance. The vessel listed heavily to one side and started capsizing at an extraordinary speed.

In retrospect, there were grave errors and violations of regulation at all the important stages of getting approval for the acquisition of a new vessel, the renovation of the vessel, the vessel operational management rules, and the clearance for departure from the port. The government agencies and the private entities that were delegated authority to inspect, approve, and monitor these steps all neglected their duties. There is evidence of the Cheonghaejin forging the required documents at every stage and providing dining and entertainment to the officials at least at some stages (Lawyers 2014, 107–110). Moreover, these irregular practices were not an exception for the Sewol but were known to be common. The regulatory authorities were captured by the industry and individual companies like the Cheonghaejin.

RESCUE OPERATIONAL FAILURES

The capsizing of the Sewol did not necessarily have to cause so many deaths. Had the captain and crew made good judgment and acted responsibly, the lives of most of the passengers could have been saved. Had the coast guard officers engaged in rescue operations effectively, many lives could have been rescued. However, the captain misdirected the passengers to stay put and not leave the sinking ship. This instruction led many passengers, especially high school students who faithfully followed the instruction, to be trapped inside the cabin, preventing them from escaping when the ferry submerged. Leaving the passengers behind in jeopardy, the captain and crew escaped the ferry and were first rescued by the coast guard. It was found that the Sewol's crew consisted of temporary contract workers who were inept at steering and safe operations (Lawyers 2014, 27; Woo 2014, 81). They were given virtually no training for dealing with emergencies and accidents, but the Cheonghaejin colluded with the regulatory authorities to forge safety training records (Lawyers 2014, 136–139). Given the history of numerous accidents of the Cheonghaejin-operated passenger ships, it is very curious that the company continued to under invest in safety measures and emergency training. Perhaps, the absence of competition enabled the monopoly to continue to neglect the safety.

An examination of the rescue operations shows complete incompetence on the part of the Coast Guard. It also reveals the utterly inefficient disaster management governance, including the confusion in the control tower and inadequate coordination among various government agencies at the central and local levels. One of the most disturbing scenes surrounding the Sewol incident was the void rescue scene where neither the coast guard officers, civilian rescue divers, nor the navy actively engaged in the rescue process. During the so-called golden time, when the rescue operations could have been most effective, all parties holding marine safety responsibility were seemingly killing time just circling around the submerging ferry. Although coast guard officers

on Patrol Boat 123 first arrived at the scene and rescued the crew and some passengers who escaped the vessel, they curiously refrained from actively rescuing the passengers trapped inside the ferry. They even prevented nearby civilian divers from diving in to rescue passengers. Those fishermen who rescued many passengers from the sinking ship did so, ignoring the Coast Guard captain's warnings against approaching the Sewol (Woo 2014, 87). The Coast Guard also declined the offer to help with rescue operations from a US naval ship that was approaching the scene of the accident.

On the day of the accident, the Coast Guard arranged a contract for salvage operations between the Cheonghaejin and the Undeen Marine Industries, a private salvage company (Lawyers 2014, 149). It was even suspected that the Coast Guard prevented civilian divers and nearby navy from conducting rescue operations in order to preserve the Undeen's exclusive right to carry out rescue and salvage operations, because there was evidence for collusion and corruption between the Deputy Commissioner and the high-ranking officers of the Coast Guard and the Undeen (Lawyers 2014, 85–86). The investigation also revealed that the coast guard officers had been secretly providing the company with information on marine accidents so that the company might engage in profitable rescue and salvage operations, in exchange for gifts (Lawyers 2014, 86).

The Coast Guard did not allow any barge other than the Undeen-owned barge to participate in rescue operations, although around 22 barges sailing near to the site could have arrived much earlier than the Undeen barge. It was also revealed that the Undeen company barge did not meet safety standards (SPO 2014). The collusion between the Coast Guard and Undeen may have been the reason why the coast guard officers on Patrol Boat 123 prevented divers and other vessels from approaching the site of the accident as they were waiting for the Undeen barge to arrive (Lawyers 2014, 149).

Furthermore, there was no national navy operation entering the accident site, despite the fact that the naval salvage ship Tongyeong had been constructed after the sinking of the Cheonan warship in 2010 in order to conduct quick and effective rescue operations. Although the Chief Navy had ordered to deploy Tongyeong to the site of the accident, the salvage vessel never came to the scene. It turned out that the Tongyeong vessel had been defective since its inception and could not be used for rescue operations. The reason was procurement corruption that was practiced between military authorities, navy, and private companies in the building of the first Korean-made naval salvage ship Tongyeong (Kim 2014).

THE LEGACIES OF STATE CORPORATISM AND NEOLIBERALISM IN THE SEWOL ACCIDENT

In the above section, we have identified the multiple causes of the accident, such as the violations of safety protocol at every stage from the purchase and renovation of the vessel to the clearance for departure from the port despite cargo overloading, poorly secured cars and freight, and inadequate ballast water. Behind this safety regulatory failure was pervasive regulatory capture as well as some deregulation measures such as the extension of ship age limit. We have also found the collusion between the Coast Guard and the private salvage company Undeen as well as the utter incompetence and irresponsibility of the crew and coast guard officers contributing to the dismal rescue failure.

In order to identify the roles of state-corporatist arrangements and neoliberal reforms in causing the tragedy, we conducted process tracing of critical factors that contributed to the disaster such as the delegation of regulatory authorities to private entities, the revolving door and collusive relations between the government and the marine industry, the absence of competition in the ferry business, and deregulation of safety measures. We found a deeply rooted legacy of state corporatism inherited from the Park Chung-hee period, which led to persistent and pervasive government–business collusion and regulatory capture. While deregulation also exacerbated the risks, the bureaucracy–industry collusion selectively utilized and distorted the deregulation process to preserve and expand their interests.

DELEGATION OF SAFETY REGULATORY AUTHORITY TO PRIVATE ENTITIES AND INDUSTRY SELF-REGULATION

The “vessel operational manager” system, which was considered by many commentators a “neoliberal privatization” of safety regulation enforcement, was first introduced in 1972, far before the onset of neoliberalism in South Korea. It was motivated by the Namyong Ferry accident in 1970, which claimed 338 lives. Since overloading and overcrowding were identified as the primary cause of the accident, the government began to explore various ways of regulating the passenger shipping industry. The government decided to introduce vessel operational managers, who would be deployed to various ports to inspect the vessels’ compliance with safe operational rules (Ju et al. 2009; KSA 2012).

The Marine Transportation Industry Act amended in December 1972 introduced a new provision, Article 3–3, which stipulated that “operators of coastal passenger transportation services shall be guided and supervised for safe operation by vessel operation managers appointed by the Korea Shipping Association.” The Article adds, “Operators of coastal passenger transportation services shall bear the expenses incurred in placing operation managers.” According to this industry self-regulation arrangement, safety operation managers were paid by the passenger shipping industry themselves, without adequate government oversight or any effective mechanisms for consumer monitoring.

An important question is why such scheme was enacted in 1972. The reason was simple. The government did not want to spend additional government budget for this new system. Hence it delegated the authority to hire vessel safety operational managers to the Korean Shipping Association, requiring the passenger shipping companies to pay the costs (Ju et al. 2010; Korean Shipping Association (KSA) 2012, 221). However, this kind of corporatist regulation cannot be introduced without a single peak industry association under government control. This condition was satisfied in the early years of Park’s regime.

The Korean Shipping Association (KSA) was established under the Korean Shipping Association Act of 1961 in the context of Park’s organization of state–society relations under the principles of state corporatism. While there had been multiple shipping industry associations in the 1950s, the new law recognized only one industry association (KSA 2012, 147). Even today, the KSA holds a monopoly on the representation of interests of around 2,000 shipping companies and ship owners under the law. The KSA has often complained about the financial burden imposed on member companies to maintain the

vessel operation managers system. However, the lack of independence for the vessel operation managers from the passenger shipping companies they are to regulate has been a serious obstacle for rigorous enforcement of safety rules. In 2011, some National Assembly members proposed a bill to change the affiliation of the vessel operation managers from the KSA to a marine safety organization. However, such legislative attempt was unsuccessful due to strong opposition from the government (Seo 2014).

The prosecutorial investigation after the Sewol Ferry accident shows that those vessel operation managers who tried to rigorously enforce safety rules were often admonished by their superiors at the KSA and suffered unfair treatments by the KSA (Seo 2014). Their enforcement power has weakened as well. They were initially able to prohibit on the spot the embarkation of vessels that had violated safety rules such as overcrowding and overloading. However, the final authority to order the prohibition of embarkation has been transferred to the Coast Guard, and the vessel operation managers were only able to request the Coast Guard to give the order (Ju et al. 2010).

The delegation of vessel safety inspection authority to the Korean Register, a not-for-profit ship classification society, was often presented as another piece of evidence supporting the neoliberalism explanation. However, the KR has had exclusive legal authority for safety inspection and classification for certain ships other than passenger ships since 1961 and also for passenger ships since 1982 under the Ship Safety Act. In fact, delegation of regulatory enforcement and inspection authorities was ubiquitous under Park Chung-hee regime's state corporatist arrangements and continued under Chun Doo-hwan regime (1980–87). As the presidential decree on delegation of administrative power was promulgated in 1970, many administrative and regulatory programs were delegated to local government agencies and private entities during the 1970s and 1980s. In particular, there were 119 cases of delegating inspection and examination authorities to private entities between 1970 and 1986 (Han 1989). Thus, the KR assuming the inspection authority of ship safety was not an isolated case during the period of state corporatism.

The evolution of international shipping safety regulation indicates the important role of the classification societies as well as insurance companies (Braithwaite and Drahos 2000, 420–423). Insurers needed assurance that ships were safely constructed, and classification societies improved inspection capacities to meet the demand of the insurers. Today most states contract some of their regulatory activities to the classification societies. Ship owners undertake rigorous inspection from respected classification societies in order to lower their insurance premiums.

What distinguishes the KR from classification societies in other countries is that the former enjoys monopoly status by law for inspection and registry of vessels in Korea. In addition, the KR has maintained cozy relations with both the domestic passenger shipping industry and the government (Roh 2014). The KR obtained a full regular membership of the International Association of Classification Societies (IACS) in 1988. IACS conducts quality assurance audits of members. Since 2000, the KR has adopted a policy of not registering international passenger ships over 20 years old to meet the international safety standards (Korea Shipowners' Association 2007, 1040). Apparently the KR applies double standards for inspection and register of international and domestic ships, as its approval of risky renovation of the Sewol ferry reveals.

Many commentators also noted a "privatization" of rescue operations. They considered the establishment of Maritime Rescue and Salvage Association of Korea

(MARSA) in 2013 a piece of supporting evidence. This is a misunderstanding, however. There was no privatization of rescue operations, and the Coast Guard, not the MARSA, was still in charge. The Coast Guard did not contract out to the MARSA or the Undeen to do the rescue operations for the Sewol passengers. The Coast Guard only arranged a contract for salvage operations between the Cheonghaejin and the Undeen. As the only legally recognized organization of individuals and for-profit and not-for-profit organizations involved in maritime rescue and salvage operations, the MARSA resembles a typical corporatist organization, or a state-sponsored cartel of the rescue and salvage business.

The organization was created as a non-profit corporate according to the Rescue and Aid at Sea and River Act amended in 2012. A report suggests that the Coast Guard (which was the main government agency to carry out the Act) and relevant private groups had intensively lobbied the government to obtain legal recognition for a non-profit organization to help the Coast Guard with rescue and salvage operations (Koo 2014). Their initial rationale was that a rapid increase in the number of accidents at sea called for more participation from volunteer rescuers and non-profit rescue organizations, and an efficient system to promote public-private cooperation. The primary purpose of the MARSA is “research, development, and training” on maritime rescue and salvage, according to the law, but the real work of the organization is vague. The law allows the government to delegate rescue and salvage-related operations to the organization. A number of marine companies’ CEOs and a few Coast Guard officers assumed leadership positions in the MARSA, including the CEO of Undeen Marine Industries and the safety operation director of the Coast Guard. Once established, the MARSA functioned as a channel for exchange of profitable information and favors between private companies and high-level officials of the Coast Guard. In the past, Coast Guard officers used to relay information on marine accidents quickly to the Undeen so that the company could participate in the “profitable” rescue and salvage operations.

Thus, our research shows that the delegation of regulatory authorities such as enforcement of vessel operational rules and inspection of vessel safety to private entities such as the Korean Shipping Association and the Korean Register took place as state-corporatist arrangements of government-business relations. Also, the creation of the MARSA was not a privatization of rescue operations but a state recognition of a corporatist not-for-profit organization, which facilitated collusion between the Coast Guard and the marine industry in the name of public-private partnership for effective rescue operations at sea.

THE PARACHUTE APPOINTMENTS AND REGULATORY CAPTURE

It was common knowledge that coastal ferries routinely violated the limits on the number of passengers and the weight of cargo on board. It was also common knowledge that the regulatory officials did not enforce the rules rigorously. Nevertheless, delegation of regulatory enforcement to private entities should not have necessarily led to ineffective enforcement had it been accompanied by effective government oversight. Regulatory agencies such as the Ministry of Oceans and Fisheries and the Coast Guard, however, were captured by the passenger shipping industry that they were supposed to regulate.

Regulatory capture was maintained by frequent personnel movement from the marine safety regulatory agencies to the marine industry. A number of senior officials retired from the regulatory agencies were employed by the private non-profit organizations with delegated regulatory authorities. Amongst the 12 individuals who served as the chairman of the executive board of Korea Shipping Association (KSA), as many as ten had previously held senior positions in major government bodies including the Ministry of Oceans and Fisheries. Similarly, of the 12 former chiefs of the Korean Register (KR), eight had previously worked for the ministry or affiliated organizations as senior officials (Lawyers 2014, 107). The collusive relationships formed through such “parachute appointments” were termed *Hae-fia* (sea mafia), and more generally *Gwan-fia* (bureaucratic mafia).

The “revolving door” (parachute appointments in Korea) can render the regulatory agencies susceptible to capture by the very industry that they are supposed to regulate. The ex-officials lobby the current officials for less rigorous oversight. In addition, incumbent public officials who expect post-retirement careers in an industry may find themselves in a position of conflict of interest, and may be more lax and feel obligated to favor the industry’s gain (Makkai and Braithwaite 1992).

The revolving door phenomena also prevailed between the military and the defense industry, according to the prosecutors’ investigation on corruption involving the sonar procurement project for Tongyeong rescue-and-salvage naval ship. Former senior military and defense officials had moved to lucrative positions in the defense industry, who then utilized their previous networks to lobby decision-makers on behalf of corporate interests (Park 2014).

While the revolving door phenomena and regulatory capture are not unique to Korea, the frequency of the parachute appointments in Korea is surprisingly high. It is puzzling, especially, considering that Public Officials Ethics Act has prevented senior officials from taking jobs for two years after retirement in private companies or interest groups in the sectors to which their previous work was related. The answer to the puzzle can be found in the legacies of state corporatism.

The state-corporatist arrangements of establishing one legally recognized peak association for each industry enabled the government to intervene in the leadership selection of the industry associations. In this context, the practice of retired senior bureaucrats taking jobs in private companies and business associations became increasingly widespread. As public criticisms of this revolving door phenomenon increased, the Chun Doo-hwan government enacted the Public Ethics Act in 1981, which prohibited retired senior officials from taking up positions in private for-profit companies in their previous work-related sectors for two years after their retirement. The law, however, did not prohibit their being employed by industry associations and other non-profit organizations advocating for corporate, industrial and professional interests. Not surprisingly, this loophole was widely utilized.

As public calls to restrict such practices increased, the National Assembly amended the Public Ethics Act in 2001 to prohibit retired senior officials from taking jobs not only in private for-profit companies but also in the not-for-profit organizations established by private for-profit companies for their common interests. This revision of the law was part of the Kim Dae-jung administration’s anti-corruption initiatives in response to the civil society groups’ pressures for reform. However, the presidential enforcement

decree for the Public Ethics Act made an exception for those organizations that conduct the works delegated by the central or local governments. This provided retired bureaucrats with plenty of job opportunities because many government works had been delegated to various semi-public and private entities in not-for-profit organizational forms including business associations. Senior bureaucrats seem to have exerted influence during the drafting of the presidential enforcement decree. In addition, this exception clause has further incentivized the bureaucrats to create more such organizations. The creation of the MARSA in 2012, as a legally recognized organization eligible for government-delegated rescue and salvage-related works, can be understood in this context. The organization was to provide the Coast Guard officers with additional job opportunities after retirement. It would also provide some marine salvage companies with the opportunities to obtain profitable business opportunities by forging close ties with the Coast Guard.

THE ADVENT OF NEOLIBERALISM AND SELECTIVE DEREGULATION

Among the various factors that were responsible for the Sewol tragedy, the influence of neoliberalism was most apparent in the deregulation of safety measures for passenger shipping. In particular, extending passenger ships' retirement age from 25 to 30 was a contributing factor in the Sewol accident. Deregulation has been an important policy agenda of Korean governments since the financial crisis of 1997. In particular, the Lee Myung-bak government's business-friendly policy emphasized the need for deregulation, and the Park Geun-hye government has also shown full commitment to deregulation, even with respect to environmental and safety regulations. These two conservative administrations professed blind faith in neoliberal ideology of deregulation and small government.

The history of the Korean Shipping Association shows that extending the maximum life of ferries was one of the important agenda items for the industry for a long time, while shortening it was one of the major policy tools for the government to reduce ferry accidents. The restriction on the maximum age of passenger ships was shortened from 30 years to 25 years in 1973, and again to 20 years in 1984, each in response to maritime accidents such as the Nam-young Ferry accident in 1970 and the Dongyang Jumbo Ferry accident in 1984. Apparently, the Chun Doo-whan government was determined to impose stringent age limits on passenger ships, recognizing the ineffectiveness of the vessel operational managers system. In 1991, however, the regulation became somewhat relaxed, to permit five years of additional extension after the 20-year limit.

The KSA had long exerted considerable efforts to lobby the government with respect to this issue, and had intensified the lobbying especially from 2006. One of the lobbying efforts was to commission research on the topic from a team of researchers at Seoul National University in 2006. The commissioned research found that most advanced countries did not regulate passenger ships' maximum age, but these countries were applying the International Safety Management (ISM) Code to coastal ferries as well as international passenger ships. While the South Korean government announced in 1996 that coastal ferries would also be subject to the ISM Code starting from 2002, the plan was cancelled because of strong resistance from the industry. The coastal passenger shipping industry argued that the ISM code would be unnecessary, given the existence of the vessel operational managers system (KSA 2012, 558–563).

During the governmental policy-making process to revise the regulation on coastal ferries' age limit in 2008, the possibility of applying the ISM Code was never considered. The Anti-Corruption and Civil Rights Commission reported to a cabinet meeting that such deregulation would not create safety risks but rather reduce costs for the passenger shipping business (Lawyers 2014, 69–70). Although the five-year extension was accompanied by slightly stricter annual ship safety inspection, its effectiveness was questionable given the cozy relations between the passenger shipping companies and the Korean Register, and the slack government supervision over the KR. Clearly, the Lee administration's enthusiasm for neoliberal deregulation made it easy for the industry to persuade the government to relax the regulation with little supplementary measure. Following deregulation, the average age of passenger ships in Korea increased dramatically. The number of coastal ferries over 20 years old increased from 22 in 2008 to 67 in 2013 (Lawyers 2014, 71). As we noted earlier, the Cheonghaejin bought an 18-year-old ferry (to be renamed Sewol), from a Japanese owner, apparently encouraged by this deregulation.

In addition, the marine industry successfully lobbied the government for further deregulation of various safety measures. It may not be a coincidence that the annual average number of ferry accidents increased from 13.6 under the Roh Moo-hyun government (2003–07) to 17 under the Lee Myung-bak government (2008–12), a 25 percent increase (Lawyers 2014, 72–78). The deregulation of safety measures continued unabated under the Park Geun-hye administration (Lawyers 2014, 79–80).

As the strengthening of regulations in 1973 and 1984 indicates, the government could easily impose stringent regulations on the coastal passenger shipping industry when serious accidents occurred. Despite the close relations between high-level officials and large firms, a strong and autonomous government was still able to dominate business relations. As the size of the economy grew, however, government control became increasingly inefficient and ineffective. With increasing liberalization of international trade and domestic markets, coupled with political democratization, the relative power of the business vis-à-vis the government grew further. The relaxation of the ship life regulation in 1991 and 2009 partly reflects the changes in relative power between the government and business.

The fact that the Cheonghaejin hired non-regular temporary workers as the captain and crew of the Sewol ferry was often presented as another piece of evidence for the neoliberal explanation of the accident. It is based on the assumption that non-regular workers are less likely to have rigorous professional work ethics than regular workers, and the irresponsible behavior of the Sewol captain and crew might be explained by their non-regular temporary employment status. However, neoliberal labor market flexibility does not fully explain the employment practices of the Korean shipping industry. While most of the crew members of coastal ferries are non-regular employees, Korea's international passenger shipping companies are known to hire more qualified captains and crew members and to invest much more in safety training (Woo 2014, 99–100).⁷ These differences are partly due to the differences in governmental regulation. International passenger ships are subject to the ISM code that is incorporated in Korean laws. In order to comply with the ISM code, they need better-trained crew. It should be noted, however, the different regulations resulted from different responses to the introduction of the ISM code by the domestic and international passenger shipping industries.

The latter did not resist the application of the ISM code because of market pressures from global competition, unlike the former that was largely insulated from market competition (KSA 2012, 558–563).

As we noted earlier, classification societies and insurance companies have played an important role in the international shipping safety regulation (Braithwaite and Drahos 2000, 420–423). However, the Korean Register (KR), the classification society that holds the monopoly on this activity in Korea, failed to check the risky renovation of the Sewol ferry. A well-functioning insurance market should punish companies with a high number of marine accidents, but apparently such pressures did not exist for the Cheonghaejin despite its history of being involved in numerous accidents. Banks could also discipline risky corporate behavior, but the Cheonghaejin was able to obtain favorable loans from banks including the government-owned Korea Development Bank (Kwon 2014).

Interestingly, market liberalization did not progress sufficiently to make the coastal ferry markets in Korea free and competitive. Contrary to neoliberal ideas, the Korean governments have continued to protect the monopolies through entry regulation. The state-sponsored cartel system originated from the state-corporatist arrangements of the authoritarian period has been preserved despite the “neoliberal reforms” carried out by the democratic governments. According to the Ministry of Oceans and Fisheries, out of the 99 coastal ferry routes in Korea, 85 routes, including 26 subsidized routes to remote islands, were monopolized by single shipping companies at the time of the Sewol incident. In this context, it is not surprising that the Cheonghaejin had enjoyed an exclusive business license for the popular Incheon–Jeju ferry route for 20 years (Shin 2014).

The Marine Industry Act still stipulates a business license system for each ferry route. In return for protecting the monopolies, the government has imposed price caps. The marine companies have complained that passenger fees are set so low by the government that their business cannot make a profit (Choi 2014). It is unclear, however, if they could charge substantially higher prices in the absence of price regulation, considering the increasing competition with airlines.

The law still imposes numerous economic regulations on the marine industry, including price controls (Choi 2014). Thus, neoliberal ideas have not been applied across the board, but only selectively. Deregulation of safety measures was introduced in response to the business lobby, but liberalization of markets was resisted by the collusion between the government and business, especially in domestic markets that are immune from global competition. It is similar to the capture of financial liberalization process by the chaebol and merchant banks in the 1990s, which led to the failure of prudential regulation and contributed to the financial crisis of 1997 (Haggard 2000, 36–38). The legacies of state corporatism are still alive in government control and protection of the cartel with collusive government–business relations.

It is notable that 16- and 17-year old students from Danwon High School made up the majority of passengers on the Sewol, comprising 325 out of 476 passengers on board. Back in September 2011, the Busan Regional Maritime Affairs and Port Office and Jeju Regional Marine Environment Management Corporation had sent out official letters to education offices administrating metropolitan and provincial areas to encourage high schools to organize ferry trips to Jeju Island as their annual student excursion package

(Woo 2014, 105–112). It is unclear how the Cheonghaejin, the main beneficiary with its monopoly operation of the Incheon–Jeju ferry route, successfully lobbied the government to promote its business. However, this episode is revealing of the collusive relations between the bureaucrats and business. Thus, the ferry business was far from the standard competitive market: the government not only protected the Cheonghaejin's monopoly privilege but also conducted highly effective marketing on behalf of that private company.

CONCLUSION

We have reviewed the implications of three contending theories for the deep causes of the Sewol ferry tragedy: corruption, neoliberalism, and regulatory capture. Although not completely mutually exclusive, they clearly point to different causal factors: outright bribery, deregulation emanating from industry interests, and direct capture of regulatory decision making and enforcement, in this case associated with state-corporatist legacies. While there was some evidence of corruption such as the Cheonghaejin's provision of dining and entertainment to the Coast Guard officials apparently in return for favorable treatment, the key problem was institutionalized collusion and capture rather than corruption in the classic sense.

Although neoliberal deregulation such as relaxation of passenger ships' age limit also contributed to the safety regulatory failure, the main problem was lax enforcement rather than lack of regulations, as well as the absence of competition in the ferry business. The shipping companies knew that they did not have to comply with safety regulations, and the regulators knew that the system was not working. The delegation of regulatory authorities to private entities without effective government oversight was a recipe for disaster. In particular, the vessel operation managers system, which was introduced as an industry self-regulation scheme after the Nam-young Ferry accident of 1970, was a typical state-corporatist arrangement. As the state's control weakened over time, such a corporatist scheme became nothing but a system of collusion between the government and the industry. Regulatory capture was further intensified by the ubiquitous parachute appointments that were institutionalized from the state-corporatist arrangements.

The Cheonghaejin had a history of numerous marine accidents, but the company continued to enjoy monopoly over the lucrative Incheon–Jeju ferry route and other governmental favors. The government has continued to protect monopolies for most ferry routes, maintaining a licensing system for individual ferry routes that amounts to a state-sponsored cartel as a legacy of state corporatism. Continuing regulation of market entry and deregulation of safety measures indicates that the priorities for deregulation were not guided by economic logic or public interest, but were driven by the special interests of the industry, which constitutes clear evidence for regulatory capture.

In the absence of effective government regulation, market pressures could incentivize the passenger shipping companies to invest in safety and emergencies. However, the Cheonghaejin did not feel market pressures because of the lack of competition. Neither insurers, banks, nor the classification society functioned to check the risky business of the Cheonghaejin despite its record of being involved in numerous accidents. In the end, neither government discipline nor market discipline was effective to deter safety negligence.

Since the Sewol incident, a number of remedies have been put into practice, one of which is to transfer the authority to hire vessel operational managers from the Korea

Shipping Association to the Korea Ship Safety Corporation. The Coast Guard was dissolved, and the Ministry of Public Safety and Security has been created. However, reform of the cartel system in the coastal ferry industry has not been seriously discussed, and there have been no systemic efforts to empower the consumers and private stakeholders in the realm of safety regulations.⁸

The findings of this study have implications for the debate on the continuity or demise of the developmental state and its replacement by neoliberal capitalism in Korea. Our study shows strong path dependence and the persistence of institutions (North 1990; Pierson 2000). The liberalizing reforms carried out by the Kim Dae-jung government and subsequent governments after the 1997 financial crisis was partial and uneven, and the legacies of state corporatism are still alive and well. In spite of neoliberal rhetoric of small government and deregulation championed by the conservative Lee Myung-bak (2008–12) and Park Geun-hye (2013–) administrations, bureaucratic control and collusive relations with business organizations are still pervasive, especially in domestic businesses that are immune from market pressures from global competition.

Vested interests of the industry and the bureaucrats prefer the continuity of old system, accepting only superficial reforms. The problem is that deregulation to protect the interest of consumers has been met with resistance by the vested interests, while deregulation that hurts the public interest has often been vigorously pursued and implemented.

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NOTES

1. Parachute appointments are equivalent to “Amakudari” (descent from heaven) in Japan. The term “revolving door” is more commonly used in the United States, but the revolving door in Korea and Japan are mostly unidirectional from the government to the private sector.

2. The current and earlier versions of all the laws cited in this paper are available at www.law.go.kr/main.html, the official website for legislative information run by the Ministry of Government Legislation.

3. The large body of the developmental state literature on Korea neglected Park Chung-hee’s transformation of business associations according to the principles of state corporatism, focusing on Park’s *questionable* contribution to the establishment of a meritocratic bureaucracy (You *forthcoming*). There have been few studies of corporatism in Korea. Robert Wade (1990), Ziya Onis (1991), and Jonathan Unger and Anita Chan (1995) gave brief descriptions of state corporatism of the developmental states in Korea and Taiwan, but their main focus was not Korea. Moon-Kyu Park (1987), Jang Jip Choi (1989), Yun-Tae Kim (1998) and Dennis McNamara (1999) are among the few studies of Korean corporatism written in English, while Young-Rae Kim (1987),

SaKong and Kang (2001) and Eui-Young Kim (2005) are notable studies of Korea's interest groups and state corporatism written in Korean. Lee (2003, 104) and You (2015, 192–193) describe Park Chung-hee's state-corporatist organization of business associations.

4. The early literature on regulatory capture, notably put forward by Stigler (1971), emphasized that “regulation is acquired by the industry and is designed and operated primarily for its benefit.” In the aftermath of the 2007–09 global financial crisis, however, there is increasing consensus that deregulation can also be captured by the industry (Carpenter and Moss 2014).

5. The business associations formed before 1960 did not enjoy exclusive recognition by the state when they emerged (Park 1987).

6. The Fair Trade Commission's survey found 6,316 business associations in 1999, of which 4,187 associations had specific legal grounds. The Regulatory Reform Committee selected 155 associations for special attention in 1998, of which 37 associations had legal requirement of the mandatory membership (SaKong and Kang 2001; Kim 2005).

7. Woo (2014, 99–100) notes that of the 802 crew members for domestic passenger ships, 602 were non-regular employees. He also notes that international passenger ships typically spend about 10,000 dollars per year for safety training of the crew, whereas the Cheonghaejin spent merely 500 dollars for safety training in 2013.

8. Ian Ayres and John Braithwaite (1992) suggested participation of various stakeholders, in particular consumer or public interest groups to prevent regulatory capture.

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