

The Guarantee of a Minimum Standard of Living in the Republic of Korea: A Constitutional and Social Security Law Perspective

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I. Introduction

The Republic of Korea is still falling behind in its mission to guarantee a minimum standard of living for its citizens. According to a 2021 survey, the national poverty rate stood at 23.2 per cent, yet only 4.8% per cent of the population were recipients of social benefits.¹ The poverty rate among the elderly is particularly severe at around 38 per cent, the highest among OECD member states.² However, only about 10 per cent in this group receive welfare support.³

Several questions arise in relation to the right to a minimum standard of living. The first concerns whether the right to a minimum has binding force within the legal system, and how it can be effectively implemented. This is fundamentally a question of constitutional interpretation, specifically whether the normative and practical limitations that typically apply to the implementation of basic social rights also apply to the enforceable right to a minimum standard of living, or whether the unique characteristics of this right lead to a different conclusion in a constitutional review. Second, the relationship between the legal and policy spheres must be explored, specifically how each sphere contributes to the broader goal of guaranteeing a minimum standard of living. Within this comprehensive understanding, the guarantee of the right to a minimum standard of living could be integrated into the constitutional framework, transforming abstract principles and guidelines into concrete criteria for policymaking, legislation and constitutional review. Given that the constitutional clauses on human dignity (Art. 10) and the basic social right to a decent life (Art. 34), later illustrated, permeate nearly all legal and institutional domains, it is important to include them in this analysis. This will further deepen our understanding of the guarantee of a minimum standard of living, which is an essential step towards effectively understanding, evaluating and advancing the core principles of the welfare state. It should be also noted that the provision of personal social services for the elderly, children and persons with disabilities plays a leading role in functionally complementing social insurance

1 T. Kim and S. Han, *Basic research on social security reform to eliminate welfare no-care zone* (Korea Institute for Health and Welfare 2023), p. 72, 171.

2 Ministry of Health and Welfare, *The Health and Welfare White Book* (2023), p. 408. This estimation was, however, to some degree inflated because it was based on income without taking assets into account.

3 Ministry of Health and Welfare (n 2), p. 105.

and public assistance schemes. The same holds true for the functional cooperation between national health insurance and public health policy.

This chapter, however, focuses exclusively on public assistance and social insurance, which are the primary instruments to realise individuals' subjective right to a decent life and serve to fulfil the State's corresponding responsibilities. Public assistance belongs to the last-resort safety net within the social protection system and aims directly to guarantee a minimum standard of living. In the face of social and economic changes, public assistance today evolves to target specific groups of individuals (e.g. the elderly poor) and those in need of support (e.g. the working poor). But social insurance to some extent also contributes in its own way towards ensuring a minimum standard of living.

II. Overview

The constitutional aspects of a minimum standard of living protection must be examined from two perspectives. First, the relevant principles and basic social rights of the constitution need to be deductively translated into social security legislation, with universal protection against poverty and adequacy of benefits and of their amount as elements. These aspects are expected to guide legislative discretion, which is generally afforded wide recognition, on the one hand, and to provide criteria for effective judicial review, on the other. Second, constitutional law is developed inductively, with stable and meaningful content formed by concrete social security legislation and institutions that refine the interaction between the two. The legislative and institutional consensus around specific goals, such as maintaining minimum living standard for a healthy and cultural life (Art. 4 of the National Basic Livelihood Security Act), serves to innovate the constitutional ideas and principles. Constitutional law is thereby enriched by socially favourable elements that are necessary to ensure the continued vitality of the constitution. This reduces the discrepancy between higher and lower norms, as well as between legal norms and fact.

1. Constitutional Law

a) Basic Social Rights Related to the Guarantee of a Minimum Standard of Living

The Republic of Korea's constitutional law enshrines the protection of human dignity as a core constitutional principle (Art. 10), which is closely tied to the basic social right to a decent life through social security (Art. 34). Every citizen is entitled to this right (Art. 34, para. 1), and the State has the obligation to promote social security and welfare (Art. 34, para. 2). The Constitution specifically mandates the protection of citizens who are unable to earn a livelihood due to physical disability, illness, old age or other causes under the conditions prescribed by the act (Art. 34, para. 5). Additionally, the State has the obligation to establish a social and economic order that extends beyond the political one. This obligation is articulated through the guarantee of various basic social rights (Arts. 31-36) and through a separate chapter in the Constitution that covers the economic order (Chapter 9, Arts. 119-127). Taken together, these provisions affirm that every citizen has the right to a minimum standard of living, with the State bearing responsibility to ensure its protection.

In addition to the right to a minimum standard of living in Art. 34, other basic social rights, such as the right to education (Art. 31), the right to work (Art. 32), and the right of workers to organise, bargain collectively and take collective action (Art. 33) are importantly linked to the State's obligation to guarantee a minimum standard of living. The right to education is related with the task of the guaranteeing a minimum standard of living in two ways. Above all, it provides individuals with the chance of an equal starting point, equipping them with the general and professional knowledge and skills necessary to be able to lead a decent life. Passively speaking, it prevents them from falling into poverty. This right should be reflected in social policies aimed at ensuring a minimum standard of living, for example, by being treated as a distinct component among the benefits provided to guarantee a minimum standard of living.

The right to work (Art. 32) entails more than just access to employment; it also guarantees the working conditions necessary for individuals to be able to lead a decent life. In the Republic of Korea, the main instruments of social security are the social insurances. They are predominantly financed through contributions based on workers' incomes. Consequently, individuals without employment cannot afford to maintain their current standard of

living due to lost income, let alone prepare for their future living expenses with the help of social insurance benefits. This increases their risk of falling into poverty. Workers' rights (Art. 33) are functionally related to the right to work. In the bargaining process on working conditions, workers generally do not have equal bargaining power compared to their employers. Workers' rights to association, collective bargaining and action empower them to counterbalance this disparity. Based on this they will be able to reach improved working conditions at either their individual workplaces or across the entire industry. If such improvements are expanded over time, they can, in turn, contribute to strengthening the relevant legislation, such as the Labour Standards Act, in favour of workers. The foundations of social security would thereby be further solidified. In order to maintain the effects of such reforms, it is essential that the solidarity and scope of labour union activities are sustainable. If part-time workers are separated from regular workers in the process of bargaining over working conditions, the labour force becomes fragmented. As a result, improving their working conditions and expanding their access to social security would remain a distant goal.

b) Economic Order

Article 119 of the Constitution declares the principle of a free market economy order (para. 1) while also empowering the State to regulate and coordinate economic activities to maintain balanced growth and stability of the national economy, ensure proper distribution of income, prevent market domination and abuse of economic power, and finally the democratization of the economy through harmony among the economic actors (para. 2). Preventing market dominance and the abuse of economic power are essential for the market to function properly. From a social order perspective, such measures also contribute to guaranteeing the social protection of labour which is inherently shaped by market dynamics. In addition, a proper distribution of income aligns with the goals of the social order, ensuring that workers' incomes cover substantially both their present and future livelihood needs. The Constitution generally conceives the relationship between capital and labour as one of confrontation and cooperation. From this constitutional conception, it could be inferred that the capital supports and protects workers' social problems. This is particularly discussed in terms of the possibility of social insurance protection for labour providers

who are not employed by a particular employer but economically dependent on him, and the need to protect them against the risk of falling into poverty.⁴

c) Constitutional Review

aa) Overview

The Constitution of 1987 introduced the possibility of lodging constitutional complaints. Several such complaints have challenged whether delayed legislative and administrative measures in public assistance violate related basic social rights. None of the constitutional complaints in these cases were successful,⁵ but the possibility of a constitutional review on this theme as such sparked much of the constitutional discourse about the conformity of State action with basic individual rights.

Until the late 1990s, legislation guaranteeing minimum standard of living lacked the appropriate norm structure to provide recipients with the necessary benefits. As a result, constitutional complaints were often filed against the low benefits levels that fell below the minimum cost of living. However, the Constitutional Court hesitated to acknowledge the right to a minimum standard of living as one that is directly enforceable. Since then, this position has essentially remained unchanged.⁶

The reasons were multiple. First, the constitutional nature of the right to a minimum standard of living standard has been negated, inferring that the general logic inherent to basic social rights is applicable to the right to a minimum standard of living as well. This means that the State's obligation to guarantee a minimum standard of living only turns into an individually enforceable right once concretely enacted by the legislature taking various factual circumstances such as public financial capacity, into account. Second, the concept of a decent life is an abstract and relative

4 For a detailed analysis of reforms addressing these challenges in industrial accident compensation insurance and employment insurance, see II.2.a) dd) and II.2.a) ee).

5 On an analysis and critical review of constitutional decisions on the National Basic Livelihood Security Act, see K. Cheon, *Social Security Law and Constitutional Review* (Gyphyenjae 2021), pp. 291 ff.; S. Hong, 'Study on the Conditional Livelihood Benefits in the National Basic Living Security Act – With Comment on the Decision of Korean Constitutional Court on the Article 15 of National Basic Living Security Act' *Journal of Legislation Studies* 16 (2019)2, pp. 54 ff.

6 On the first case, see Decision of 1997.5.29., 94 Hun-Ma 33, 9-1, pp. 543 ff.

one, and its realization largely depends on cultural development, historical background and socio-economic circumstances. As a result, both the scope and level of the minimum measures required to secure a minimum standard of living are open and variable. Third, the minimum measures required to ensure a decent life vary significantly, depending on elements such as national awareness, socio-economic circumstances and their ongoing changes. Accordingly, when determining the level of benefits required to ensure a minimum standard of living, complex and various elements such as national income, national living standard, public financial capacity and policy, and conflicting interests should be comprehensively taken into account as a whole. In this context, the legislature and executive enjoy a broad scope of discretion.

Against this background, the Constitutional Court reviewed constitutional complaints using moderate criteria and less intensively. It has repeatedly stated that the provisions concerned violate the state obligation only if their content is deemed so obviously unreasonable as to clearly deviate from the broadly approved discretion. The constitutional scrutiny typically proceeded as follows. First, the constitutional conformity cannot be judged by the low level of livelihood benefits under the National Basic Livelihood Security Act alone. Instead, the assessment must consider the aggregate level of support, including benefits, allowances, subsidies or exemptions from payments provided under other regulations and institutional policies as well. Secondly, it then examines whether this aggregated amount corresponds to a minimum standard of living calculated in a reasonable way, and whether it deviates from the legislative and administrative discretion. In contrast, the significance of the state obligation to guarantee a minimum living standard, from the ideal, normative and factual perspective described below, was not speculated on.

bb) Critical Remarks

Ideally, the minimum standard of living should be absolutely guaranteed, as it is the most fundamental precondition for human dignity and the free development of the individual. From the perspective of equality, all individuals should be equal at least in terms of the minimum standard of living. It is also worth considering that citizens should be able to participate in social life and integrated into social communication. In this sense, the guarantee

of a minimum standard of living represents an essential foundation for further social integration.

The normative obstacles to realising basic social rights as enforceable legal entitlements do not generally apply in the same way and degree of intensity to the right to a minimum standard of living. The concept of basic social rights expressed in the constitutional provisions is admittedly understood as being open-ended and adaptable, largely leaving their substantive concretisation to legislative discretion. In contrast, the scope and level of benefits necessary to guarantee a minimum living can, to some extent, be directly derived from constitutional provisions and their interpretation.

Basic needs for physical subsistence, a healthy and cultural living, and opportunities for socio-economic participation are indispensable for ensuring human dignity. In this respect, the principle and normative guidelines of the basic social right to a minimum standard of living are clearly articulated in the Constitution. However, this aspect has often been neglected in the constitutional review process, which tends to emphasise the ambiguity of the concept and the varying factual circumstances that contribute to the difficulties in its realisation.⁷

Determining the level of benefits necessary to ensure a minimum standard of living is undoubtedly primarily left to legislative and administrative discretion. However, the possibility to review scope, content and level of benefits based on constitutional law remains. This is justified by the fact that the content of the minimum standard of living can, at least in principle, be derived from the relevant constitutional clause and its interpretation as has been shown above. On this normative ground, the Constitutional Court should be authorised and in fact obligated, even taking the policy discretion into account, to apply the constitutional guidelines, and at the very least to establish a baseline that is applicable in constitutional reviews. The intensity of constitutional review may vary depending on the issue under review and whether it concerns basic needs for physical subsistence or the opportunity to participate in socio-economic and cultural life.⁸

Normative challenges surrounding the realisation of basic social rights through state action arise due to potential conflicts between third parties' competing interests and the general interest. The right to work serves as a

⁷ To date, the Constitutional Court has hesitated to enforce this perspective, see Decision of 2004.10.28, 2002 Hun-Ma 328, 16-2(2), p. 204.

⁸ In the decision concerning the subjective right to benefits for veterans, the Constitutional Court implied this position, which, however, has not been further developed, see Decision of 1995.7.21., 93 Hun-Ga 14, 7-2, p. 31.

notable example, insofar as it has to be balanced against the employer's occupational freedom (Art. 15). The right to work cannot be enforced by imposing unreasonable obligations or financial burdens on employers. However, this is not the case for the right to a minimum standard of living, because its realisation is grounded in a more straightforward, bilateral relationship of right and obligation between the individual and the State.

Lastly, it is important to acknowledge that public financial capacity generally plays a significant role in the implementation of basic social rights; however, in the case of the right to a minimum standard of living its role is not as decisive as it may be for other basic social rights. Accordingly, the logic of public finance should not be treated as absolute. Instead, it should be reserved to decision making determining financial priorities across different policy fields. Given the fundamental significance of the right to a minimum livelihood from both an ideal and normative perspective, policy priorities should rather centre around it.

2. Social Benefits

a) Overview of Social Insurance Schemes

Since the mid-1970s, the Republic of Korea has actively advanced legislation across various branches of social insurance. The National Health Insurance Act, the National Pension Service Act, and the Employment Insurance Act were enacted in 1976, 1986 and 1993, respectively. In response to the growing need for long-term care, the Long-term Care Insurance Act for the Elderly was introduced in 2007.

aa) National Health Insurance Act

The National Health Insurance (NHI) aims to support the prevention and treatment of diseases, thereby promoting the population's overall health. However, it does not cover loss of income resulting from illness. Currently, around 97 per cent of the population is covered by the NHI, while the remaining citizens are supported under the Medical Care Assistance Act. The NHI does not fully cover the costs of medical treatment. Insured individuals must cover a share of the costs on their own (co-payment). The co-payment rate ranges from 30 per cent to 50 per cent, depending on type of healthcare facility. Medical treatment is provided in accordance

with the criteria and procedures specified by the Act. However, due to the co-payment system and the extensive range of uninsured costs, the share of medical costs covered by the NHI remains low at around 63 per cent. The NHI is funded through both employer and employee contributions. In 2024, the contribution rate was 7.07 per cent for insured employers. This rate may be reduced for insured individuals with limited financial ability.

bb) Long-Term Care

Long-term care is provided to insured individuals aged 65 and older, who are no longer able to live their ordinary life independently. Individuals are classified into one of five ratings depending on their level of need. Initially, 4.2 per cent of individuals aged 65 or older were beneficiaries, but this number has rapidly increased in recent years, reaching 10.87 per cent of all persons aged 65 and older in 2022.⁹ All individuals insured under the NHI are also insured under the Long-term Care Insurance for the Elderly. Those who are eligible for medical care assistance can also apply for benefits under this scheme.

cc) National Pension Service

Employees, as well as all residents between the ages of 18 and 60, are insured under the National Pension Service (NPS). While the NPS's income security scheme seemingly covers the entire economically active population, many low-income earners do not enrol in the scheme, and legislation does not yet take non-standard forms of employment into account. As a result, the coverage gap within the NPS is significantly wider compared to the NHI. Moreover, the rate of the factually insured individuals among those eligible for the NPS shows a conspicuously large gap between regular work and irregular work. In 2023, 92.7 per cent of regular workers were covered compared to only 40-50 per cent of irregular workers. Accordingly, only 51.2 per cent of eligible individuals are recipients.¹⁰ The scheme is financed through contributions from both the insured workers and their employers. The NPS Act sets the contribution rate at 9.0 per cent. In recent

⁹ Ministry of Health and Welfare (n 2), p. 397.

¹⁰ Ibid., p. 406.

years, discussions have increasingly focused on the possibility of raising this rate to between 13 per cent and 15 per cent over the long term.¹¹

The NPS provides pensions to insured persons and their dependents. Dependent pensions are paid as flat-rate payments. Children are eligible under the strict condition; they must be under the age of 19 or severely disabled. The annual benefit amount remains low, namely KRW 293,580 for the beneficiary's spouse, and KRW 195,660 for the beneficiary's children in 2024.¹² Following legislative reforms in 1998 and 2007, the income replacement rate was reduced from approximately 70 per cent to around 60 per cent and finally to 40 per cent. As a result, the pension provided under NPS no longer guarantees recipients belonging to the lower category of income to live a minimum livelihood. This shortfall resulted in the introduction of a basic pension for the elderly, which is discussed below.¹³

When recipients of an old-age pension engage in economic activities that generate income exceeding a prescribed threshold, their pension benefits are reduced by up to 50 per cent. However, this reduction contradicts both the policy objective of occupational promotion for the elderly and the constitutional right to occupation (Art. 15). The discussion about whether it should be abolished is ongoing.

dd) Industrial Accident Compensation Insurance

The Industrial Accident Compensation Insurance (IACI) is a social insurance designed to compensate workers who have suffered an accident at work, including accidents that occurred during their commute to and from work.¹⁴ At the same time, the IACI covers the employer's liability for compensation in case of work accidents, thus exempting the employer from liability to the extent that IACI provides benefits to the worker. The IACI applies in all workplaces that employ workers, with limited exceptions

11 On the reform discussion, see H. Sung, 'Measures and effects of Introducing Automatic Adjustment Mechanism for Financial Stabilization of the National Pension System' *Korean Social Security Studies* 40 (2024)3, pp. 30 ff.

12 EUR 1 is approximately KRW 1,470 in 2024.

13 See Sec. II.2.b) cc).

14 The IACI was revised to cover this risk, as the Constitutional Court had declared the clause unconstitutional, which does not explicitly enumerate the accidents that occur during the commute to and from work. See Decision of 2016.9.29, 2014 Hun-Ba 254, 28-2(1), pp. 316 ff.

based on factors such as risk level, employer's size, or location of the workplace.

The benefit amount provided by the IACI are based on the average wage. When a worker sustains an illness or injury from a work-related accident, the IACI provides temporary layoff benefits amounting to 70 per cent of the worker's average wage. In case of permanent disability, the worker may receive either a disability pension or a lump-sum compensation, with the pension level ranging from the equivalent of 138 to 329 days of the worker's average wage, depending on the degree of the disability. If the worker dies as a result of a work accident, survivors are entitled to 47 per cent of the deceased's average annual wage.

The IACI is financed through contributions solely paid by employers. The contribution rate varies by industry. In 2022, the average contribution rate across all industries was 1.43 per cent.¹⁵ In order to incentivise employers to invest in the prevention of work accidents, the rate is raised or reduced depending on the individual workplace. If an employer's benefit claims exceed 85 per cent of its contributions or fall below 75 per cent, the contribution rate may be adjusted upward or downward by up to 50 per cent.

ee) Employment Insurance

Employment insurance (EI) was already introduced in 1995. The EI covers the workers and contributions are shared between both employees and employers. During the foreign exchange crisis of 1997 and the global financial crisis of 2008, the Republic of Korea experienced unprecedented levels of unemployment.¹⁶ Facing this problem, it became urgent to rapidly extend coverage to workers, irrespective of their workplace, as well as to self-employed persons, who can now be insured upon approval by the EI administration.¹⁷

15 Ministry of Employment and Labour, *Yearbook of Industrial Accident Compensation Insurance* (2022), p. 104.

16 On this emerging problem of unemployment and its social effects, see H. Youn, 'The Current State of the Working Poor and Policy Assessment' Health and Welfare Policy Forum 197 (2013) 3, pp. 33 ff.

17 Employment Insurance Act, No. 19591, 08 Aug, 2023, Art. 2 < <https://www.law.go.kr/LSW/eng/engLsSc.do?menuId=2§ion=lawNm&query=Employment+Insurance+Act> > accessed 22.03.2025.

The EI provides employment security and vocational skills development programmes as active labour market policies. To compensate for loss of income, insured persons are entitled to unemployment benefits and maternal protection benefits. Employment security and vocational skills development programmes are designed to prevent unemployment caused by business fluctuations and industrial restructurings. These programmes are implemented through individual or facility-based support. Unemployment benefits are granted to insured persons who have lost their jobs and are unable to find employment despite being willing and having the capacity for work. Unemployment benefits include job-seeking benefits and employment promotion incentives. Employment promotion allowances include an early reemployment allowance, vocational skills development allowance, wide-area job-search allowance, and relocation allowance. The basis for calculation of the unemployment benefit is the basic daily wage. The maximum of the basic daily wage is in 2024 of KRW 110,000 per day. Job seekers receive 60 per cent of the basic daily wage. The duration of the job-seeking benefits differs according to the recipient's insurance periods. For example, a worker aged 50 or older who has an insurance contribution period of at least 10 years receives job-seeking benefits for a total of 270 days, while those with less than one year of insurance contributions receive such benefits for only 120 days.

b) Overview of Public Assistance Instruments

aa) National Minimum Standard of Living: Historical Overview

The first legislation guaranteeing the minimum standard of living was enacted in 1961. However, its effectiveness was undermined by significant normative shortcomings and financial constraints. At the time, the to a minimum standard of living standard lacked political recognition. Consequently, judicial review was not activated due to insufficient understanding of the specific features of this basic social right.

In light of these challenges and strong criticism, a fundamental reform became necessary. Civil movements advocating for the guarantee of a national minimum standard of living gained traction in the 1980s and contributed to bringing the issue onto the political agenda. The Act of 1961 was repealed in 1999 and replaced by the National Basic Livelihood

Security Act.¹⁸ Under this Act, individuals with a ‘recognised income’ below the established minimum cost of living become eligible for benefits, regardless of their capacity for work. ‘Recognised income’ comprises both the individual’s assessed income and the value of assets converted into income. This approach has clarified eligibility criteria for benefits, thereby enhancing institutional and legal stability as well as improving practical effectiveness. Benefits are calculated based primarily on the price of a comprehensive basket of goods deemed necessary to maintain a minimum livelihood. The value of this basket is determined annually through a notice issued by the Ministry of Health and Welfare. Consequently, some degree of administrative discretion is inevitable.

The provision of a minimum income has been designed to enable recipients with a capacity for work to continue maintaining their livelihood. This emphasis on self-support aims to empower individuals to overcome their situation of need through their own efforts. Accordingly, individuals who have a capacity for work only receive benefits if they participate in self-support programmes provided by the Act. Through this mechanism, the guarantee of a minimum standard of living was closely connected with employment services. This conditional eligibility did not apply to those who lack the capacity for work.

Despite these reforms, a significant number of individuals remained ineligible for coverage,¹⁹ prompting demands for further reform. This resulted in the amendment of 2014, which is illustrated below. The primary factors that contributed to the gap in coverage were unreasonable subsidiarity clauses concerning family support obligations, on the one hand, and an unrealistic income conversion rate from asset value on the other.²⁰ Individuals with little or no income were excluded from benefit eligibility if the income converted from their assets’ value—primarily housing—exceeded the recognised income threshold, leading them to be practically forced to dispose of their assets. In addition, the assistance for self-support was not

¹⁸ National Basic Livelihood Security Act, Act No. 6024, Sep. 7, 1999. This was improved by the 2014 reform, as described below in Section III.I.

¹⁹ On the achievements and challenges of the 1999 legislation, see K. Cheon (n 5), pp. 310 ff. From the comparative perspectives, this development is reminiscent of the 1954 decision of the Federal Administrative Court of Germany concerning the legal character of social assistance benefits, see BVerwGE p. 1, 159 ff.

²⁰ On the impact of these factors on the Act’s dysfunction, see M. Kim, ‘The Coverage of the National Basic Livelihood Security and Its Policy Implications’ Health and Welfare Policy Forum 292 (2021)2, pp. 10 ff.

as effective as intended or anticipated by the legislature at that time. There were concerns that the work incentive would decrease because of livelihood benefits provided to individuals who are capable of work. Consequently, livelihood benefits were disapproved of, when recipients of self-support would earn more than the minimum cost of living, namely the poverty line as defined by the National Basic Livelihood Security Act. Recipients were often found to intentionally avoid economic activities which would raise their income above that minimum threshold, or to not report their full income. These consequences ran counter to the conceptions underlying the National Basic Livelihood Security Act. In addition, the infrastructure and program for employment services were insufficient both in quality and quantity. Resources were largely concentrated on ensuring a minimum standard of living mainly with recipients participating in public works, so that the goal to lift them out of poverty by integrating into the labour market could not be achieved.

These problems prompted the 2014 reform.²¹ Until then, eligibility for various types of benefits had been decided according to an integrated requirement, meaning that those who did not meet this requirement were excluded from all kinds of benefits including self-support and medical care assistance. This so-called integrated benefit system discouraged recipients from engaging in economic activities to remain eligible for essential benefits, especially medical care assistance. The reform abolished the integrated requirement, provided mechanisms to expand coverage and revised the method for the calculation of benefits.²²

bb) Emergency Welfare Assistance

Benefits aimed at guaranteeing a minimum standard of living must be provided in a timely manner to those in need of help or support. The Emergency Welfare Assistance (EWA) Act was enacted in 2005 for those in need who do not meet the eligibility requirements for benefits or where the provision of such benefits is delayed.²³

²¹ Act No. 12933, Dec. 30, 2014.

²² See Section III.1 below.

²³ Emergency Aid and Support Act No. 7739, Dec. 23, 2005.

cc) Basic Pension

Since the 1990s, poverty among the elderly has been widespread in the Republic of Korea and has worsened over time.²⁴ The ageing society proceeded rapidly. The share of elderly persons in the population increased from 7.2 per cent in 2000 to 11 per cent in 2010, and 14.3 per cent in 2018. By 2023, that share had grown to 18.4 per cent, and projections indicate it will rise further to 20.8 per cent by 2026.²⁵ The national pension service has been limited in its function to protect the elderly from poverty for both institutional and practical reasons. In the national pension service, the elderly are only entitled to a short period of insurance. Accordingly, the level of pension acquired was low, namely only KRW 594,000 on average. Furthermore, the national minimum standard of living still left the many individuals uncovered mainly due to unreasonable and unrealistic requirements, which were in place until 2014. The basic pension was introduced in 2007 in an attempt to face the problems of ensuring the risk of old age.

dd) Occupational Promotion and Social Assistance Act

Although the working poor emerged as a social issue, the self-support programme under the National Basic Livelihood Security Act of 1999 was not effectively implemented due to the various reasons previously discussed. Employment insurance also failed to address this problem, because its coverage was limited by nature, as social insurance benefits are provided for a relatively short period. In 2019, 45.2 per cent of the employed population remained uncovered, with an even higher rate among irregular workers. The limited function of employment insurance was exemplified by the low rate of recipients: only 1.8 per cent of the working poor aged 20 to 39, and 3.9 per cent of those aged 40 to 64 received the benefit.²⁶ These gaps in coverage as well as the short duration of the benefits prompted discussions about the need for a new public assistance scheme for unemployed persons. This ultimately resulted in the enactment of the Occupational Promotion and Social Assistance Act in 2020. The Act is targeted at covering individ-

24 See Section I.

25 See Statistics Korea (2025) < <http://kostat.go.kr> > accessed 22.3.2025.

26 On these statistics, see S. Kang, *A Study on the Establishment of Income Security System Database: Extension and Systematization* (Korea Institute for Health and Welfare 2022); T. Kim and S. Han (n 1), p. 151.

uals who are capable of work and is designed to provide comprehensive job-seeking support services. The content of this legislation and its interaction with the National Basic Livelihood Security Act is discussed below.

III. Analysis

1. Protection of a Minimum Standard of Living

a) Guarantee of the National Minimum Standard of Living

aa) Conditions

Since the 2014 reform, eligibility criteria have been linked to the country's median income rather than to the minimum cost of living. This means that poverty is now taken as relative concept instead of absolute one. This shift assumes the commitment to achieving welfare equality as a dominant idea. The use of median income enhanced institutional stability by reducing the administrative discretion previously granted in determining the minimum cost of living. In 2023, the median income of a single-person household was KRW 2,077,892, and KRW 5,400,964 for a four-person household.²⁷ The conditions concerning recognised income, family responsibility, and the minimum benefit amount are now applied separately for each type of benefit. To qualify for the minimum livelihood benefit, medical care assistance, education benefit, and housing benefit, recognised income may not exceed 32 per cent, 40 per cent, 50 per cent and 48 per cent of the median income, respectively. The application of the clause of the family responsibility was intended to be discontinued. This requirement was abolished for eligibility to education benefits in 2015 and for housing benefits in 2018. The family responsibility provision continues to apply to the livelihood benefit, if the annual income of the applicant's parental or child household exceeds KRW 100,000,000 or if the value of assets exceeds KRW 900,000,000. This revision has to some extent increased the coverage rate.²⁸ The next step should be a realistic adjustment of the criteria to the value of assets.

To be eligible for the livelihood benefit, the applicant's recognised income may not exceed KRW 623,368 for a single-person household, and

²⁷ Ministry of Health and Welfare (n 2), p. 32.

²⁸ M. Kim (n 20), pp. 10 f.

KRW 1,036,846 for a two-person household in 2023.²⁹ However, these thresholds are still unrealistic as the actual minimum living costs amount to KRW 1,166,888 for a single-person household, and KRW 1,956,051 for a two-person household. This benefit applies to foreigners only under very specific circumstances.³⁰

bb) Benefits

Various types of benefits are available, including the livelihood benefit, medical care assistance, housing benefit, education benefit, childbirth benefit, funeral benefit and self-support benefit, to ensure recipients can maintain a minimum standard of living.

Benefits provided under the National Basic Livelihood Security Act are intended to guarantee recipients a minimum level of a healthy and cultural life (Art. 4, para. 1). This legislative framework provides a foundation for interpreting the constitutional right to a minimum standard of living as one that protects individuals not only by ensuring mere physical subsistence, but by also enabling meaningful participation in socio-economic and cultural life.³¹

The livelihood benefit aims to secure essential daily needs such as clothing, food, heating, and other forms of cash or in-kind support necessary for basic subsistence. However, this focus on physical subsistence highlights the National Basic Livelihood Security Act's limitation, which tends to neglect the broader aspect of participation in social and cultural life derived from constitutional law. The benefit level is calculated on the statistic base of the median income. This was a peculiar feature of the 2014 reform. Before that the calculation of the benefit amount was based on the minimum cost of living, allowing for a degree of administrative discretion. The minimum livelihood benefit provides the difference between the eligibility threshold and the recipient's recognised income. Nevertheless, questions persist about whether the level of the benefits calculated according to the median income adequately meets the needs for the minimum standard of living. The housing benefit consists of support for rent, maintenance and repair costs necessary to ensure housing stability. The education benefit is provided to individuals who are entering and attending educational

29 Ministry of Health and Welfare (n 2), p. 32.

30 Specified in Act No. 12933, Dec. 30, 2014, Articles 5-2.

31 On the relevant suggestions of the Constitutional Court Decision, see n 8.

institutions such as elementary, middle, and high school, as well as for lifelong learning establishments, etc. It covers school admission and tuition fees, school supplies and other related expenses in cash or in kind. The childbirth benefit provides maternity services and other forms of support before and after childbirth. In the event of a recipient's death, the funeral benefit covers costs for post-mortem examination, transport of the body and cremation or burial. These benefits are paid to the person actually responsible for the funeral arrangements.

Medical care assistance is regulated in the separate Medical Assistance Act (MCA). Under this Act, recipients receive the same medical care as those covered by the National Health Insurance. The costs are fully subsidised by the Medical Care Fund for Type 1, and partially for Type 2 recipients. That means that Type 2 recipients are subject to a co-payment. Recipients of the minimum livelihood benefit are basically classified as Type 1 recipients, while those who are recognised by the Ministry of Health and Welfare as requiring medical care assistance are classified as Type 2 recipients. When the co-payment amount for medical services to be covered by a Type 2 recipient exceeds a specified threshold, the Medical Care Fund of the respective local government covers 50 per cent of the costs. In case recipients are unable to pay even this reduced amount, the Medical Care Fund may cover the costs through subrogation, with recipients expected to repay the amount later without interest.

cc) Self-Sufficiency Support Programmes

Self-support is also recognized among the benefits provided under the National Basic Livelihood Security Act. However, support in the search of employment is provided through a dual system. In 2020, the Act for Occupational Promotion and Social Assistance was introduced for recipients capable of work, functioning as a type of employment policy instrument, as discussed below.³² This Act replaced relevant provisions of the National Basic Livelihood Security Act to more effectively implement employment services, on the one hand, and to complement the lack of employment insurance benefits for uninsured persons, on the other. However, the National Basic Livelihood Security Act still takes responsibility for recipients

32 See below, Sec. III.2.

of the livelihood benefits.³³ In practice, some overlap between recipients under the Occupational Promotion and Social Assistance Act and those receiving self-support benefits under the National Basic Livelihood Security Act is unavoidable. In practice, the self-support provisions under the National Basic Livelihood Security Act primarily aim to ensure a minimum livelihood on the condition of recipients' participation in the working project provided. The goal to support recipients' integration in the labour market and to thereby lift them out of poverty has not been effectively implemented by the National Basic Livelihood Security Act, which merely provides payments or loans, support for improvement of vocational ability and acquisition of skills, information about job placement, employment opportunities, the leasing of facilities and equipment, support for business start-ups, and benefits for asset-building necessary for self-support.

b) Emergency Welfare Assistance

Under the emergency welfare assistance (EWA) scheme, individuals are eligible for benefits if they are unable to maintain a minimum livelihood for any of the reasons enumerated in the Act, such as the death of the breadwinner, a fire or natural disaster or the breadwinner's loss of employment.³⁴ Its difference from the national minimum standard is that EWA provides benefits to persons in need of help preliminarily, and then conducts a need and means test afterwards. Benefits are provided not only through applications by individuals themselves or by a third party aware of the person in need's situation, but also *ex officio*. The EWA also covers foreigners and refugees residing in the country, unlike the minimum livelihood benefit, which primarily applies to Korean citizens. The benefits under the EWA are similar to those available under the National Basic Livelihood Security Act. The livelihood benefit is provided for three months, while other types of benefits are paid for only one month. Coverage can be extended up to twice by one month.

33 On the objective of occupational promotion and social assistance, on the one hand, the self-support of the National Basic Livelihood Security, on the other, see. T. Kim and S. Han (n 1), pp. 129 ff.

34 On the limited function of emergency welfare assistance resulting from this list, see. T. Kim and S. Han (n 1), pp. 84 ff.

2. The Working Poor and the Occupational Promotion and Social Assistance Act

Services aimed at encouraging job-seeking are provided under the Occupational Promotion and Social Assistance Act. To be eligible for these services, individuals must have the ability and willingness to work; their household income may not exceed 120 per cent (for a person aged 18 to 34 years) or 100 per cent (for persons aged 34+) of the average median income. Unlike the more stringent eligibility criteria of the National Basic Livelihood Security Act, the value of assets is not considered. These more moderate eligibility criteria for employment services compared to those for the minimum livelihood benefit is expected to strengthen the work incentives. Moreover, social assistance in the form of a basic livelihood benefit is provided to recipients participating in employment services. However, the income threshold for eligibility to this benefit is stipulated in a stricter way than for access to employment services, as the value of assets is included in the calculation. In addition, applicants must demonstrate a prior work history of at least 100 days or 800 hours. This is considered an indication of their willingness to work.

Occupational promotion services are implemented based on the individualised work activity plan developed in consultation with the recipient. These services include programmes designed to strengthen recipients' willingness to work, enhance their job adaptability and help them acquire the necessary skills for job-seeking. Examples include career motivation counselling, vocational training, start-up support, skills development programmes, etc. The services are provided for one year, with a possible extension of six months. Employment incentives may be granted if a recipient secures employment within a specified period.

The basic livelihood benefit is provided to eligible individuals who participate in the development of their own individual work activity plan and carry out any part thereof. The benefit is paid monthly for a period of six months and amounted to KRW 500,000 in 2023. Admittedly, this modest amount is largely symbolic and insufficient to provide meaningful support, particularly as it falls below the level of the minimum livelihood benefit offered under the National Basic Livelihood Security Act. The benefit can be extended for up to one year upon application. If a recipient earns an income exceeding the monthly benefit amount, payment is suspended. After three or more suspensions, eligibility for the benefit is withdrawn. Employment services benefits are also discontinued if the recipient finds

employment or starts a business. Eligibility is also terminated if an individual begins receiving minimum livelihood benefits under the National Basic Livelihood Security Act. However, eligibility for employment services remains unaffected, and individuals may reapply for the basic living benefit after a period of three years.

3. Poverty in Old Age and Basic Pension

a) Conditions and Benefits

The Basic Pension Act, enacted in 2007, provides a basic pension to persons aged at least 65 years whose recognised income falls below a threshold set by the Ministry of Health and Welfare. Notably, the Act itself determines the scope of recipients to be covered: the income threshold for eligibility must ensure that 70 per cent of the total number of persons aged at least 65 years would receive the basic pension. In 2024, the income threshold was KRW 2,130,000 for a single-person household, and KRW 3,408,000 for a two-person household. The basic pension is not provided to recipients of a retirement pension under the Public Officials' Pension Scheme or the Military Pension Scheme.

The amount of the basic pension is calculated differently depending on whether the recipient also receives a national pension. Those who are not eligible for the national pension benefit receive the standard basic pension amount. For those who receive the national pension, the standard pension amount is reduced to prevent overcompensation from overlapping redistributive benefits. However, if a recipient's national pension amount is less than 150 per cent of the standard basic pension, they continue to receive the full amount of the basic pension.

The amount of the basic pension is set at KRW 300,000 in the Basic Pension Act. This amount is however regularly adjusted to changes in the national consumer price index. In 2024, the maximum basic pension was KRW 334,810 for a single-person household, and KRW 535,680 for a two-person household. If both individuals of a couple are eligible for the basic pension, 20 per cent is deducted from their respective basic pension amounts. When the sum of both the recognised income and the basic pension exceed the income threshold, the basic pension is reduced by the amount exceeding that threshold.

b) Balancing Income Security and Poverty Relief

In 2007, the Basic Pension Act was introduced in response to the challenges of a reduction in the level of the national pension and rising poverty among the elderly. At the time, its enactment was a prerequisite for the National Assembly's decision to lower the national pension level. While the basic pension has, to some extent, served to alleviate poverty among the elderly,³⁵ it has also sparked debate about its role within the country's social security framework. There is ongoing debate on policy choices, in particular whether the basic pension should be treated as one layer in a multi-layered income security system meant to compensate for the reduced national pension level, or as a targeted scheme for the elderly living in poverty in functional cooperation with the general scheme of the National Basic Livelihood Security scheme. In fact, the legislative purpose outlined in the Basic Pension Act was not clearly defined, nor was the guiding principle on which that Act evolves.³⁶ If the basic pension were intended primarily to serve as one component of a multi-layered income security system, it would function as a selective form of social allowance that abstractly compensate for the reduced income replacement rate set in the National Pension Service. In this interpretation, for instance, the basic pension would be granted regardless of whether recipients also receive national pension, the livelihood benefit, etc. The predetermined threshold, targeting coverage of 70 per cent of the elderly (based on their income level) would systematically align with this concept. Alternatively, if the basic pension were designed specifically to ensure a minimum livelihood for low-income seniors, it would be exclusively provided on account of their low level of recognised income, irrespective of any family responsibility. In that case, the basic pension would be deducted from the minimum livelihood benefit, meaning that if the beneficiary receives a basic pension, the minimum livelihood benefit is reduced proportionally. In the Basic Pension Act, both elements co-exist without any clear coordination.

35 To this effect, see W. Lee, *The Elderly Poverty and the Basic Pension: Towards the Reform to Alleviate the Elderly Poverty* (Korea Institute for Health and Welfare 2022), pp. 113 ff.

36 On the related policy choice, see S. Kim, 'A Study on Restructuring of Basic Pension, National Pension and Basic Livelihood Security Program' *Korean Social Security Studies* 37 (2012)4, pp. 50 ff.; K. Oh, 'A Study on Restructuring of Pension Systems in Korea: Focusing on a 'Multi-Pillar Pensions System by Class' *Korean Social Policy Review* 28 (2021)4, pp. 139 ff.

It is not the appropriate policy choice to form the basic pension in order to compensate for the reduced income replacement rate of the National Pension Service. For the elderly with a low national pension and for those unable to maintain a minimum standard of living for various reasons, the income replacement rate is not particularly relevant from a social policy perspective. The basic pension should instead be positioned within the system of poverty relief for the elderly, operating in conjunction with the National Pension Service, on the one hand, and with the National Basic Livelihood Security Act, on the other. Within this scenario, the basic pension and the national minimum standard of living standard would stand in a special and general relationship. That is, the elderly should first be eligible for the basic pension with the moderated condition regards the family responsibility as well as the assets assessment, and then subsidiarily for the benefits under the National Basic Livelihood Security scheme as a last-resort social safety net to mitigate poverty among the elderly. In addition, the scope of coverage should be narrowed while increasing the benefit level, thereby ensuring that the basic pension effectively fulfils its purpose of protecting the elderly from falling into poverty.

The concept of a social allowance scheme, or something provisional towards this direction, is completely different and would entail corresponding contents, as mentioned above. The debate surrounding a 'basic income' falls into this category, but represents a departure from the Republic of Korea's current social security framework, which is built on a complex institutional arrangement. Whether adopting such an approach would be appropriate remains a fundamental question.³⁷

4. Minimum Wage

The Constitution explicitly mandates the enforcement of a minimum wage scheme (Art. 32, para. 1). An Act on minimum wage was already enacted in 1986 and it applied to all kinds of workplaces. In this respect it differs from the Labour Standards Act, which only covers workplaces with five or more employees. The minimum wage is determined by the Minister of Em-

³⁷ On the discussion about basic income, see H. Noh, 'A Legal Review on Basic Income' Korean Social Security Law 9 (2020)1, pp. 143 ff.; S. Back and S. Lee, 'Debating Universal Basic Income in South Korea' Korean Social Policy Review 25 (2018)3, pp. 37 ff.; J. Lee, *Constitutional Review on Basic Income* (Constitutional Research Institute 2018).

ployment and Labour, subject to deliberation by the Minimum Wage Commission. In determining the minimum wage, factors such as the employee's cost of living, the wage of comparable employees, labour productivity, income distribution, etc. must be considered. The Commission consists of representatives of employees, employers and the public interest. The minimum wage was unrealistically low for quite some time, but has been raised significantly in recent years. In 2018, it was 16.4 per cent while by 2024, it amounted to KRW 9,860 per hour, or KRW 2,060,740 per month.

The minimum wage is intended to serve as both an economic benchmark for workers' livelihoods and a financial resource of contributions to social insurance. Through this, a functional cycle of adequate income distribution in the labour market and corresponding welfare provision evolves.

5. Social Insurance and the Guarantee of a Minimum Standard of Living

a) Elements for Guaranteeing a Minimum Standard of Living in Social Insurance

As mentioned above, social insurance does not directly aim to guarantee a minimum standard of living for the entire population or even for all insured persons. It is inherent to social insurance to maintain, at least to some extent, the standard of living the individual achieved during his or her working years, even when faced with various social risks. In other words, income disparities among individuals in the labour market tend to be reflected in the welfare production. However, due to the social character of this insurance scheme, some of its elements are designed to meet the minimum standard of living of insured persons. First, for those with a low income, the financial burden of contributions is partially subsidised by public institutions to help them obtain and maintain membership in social insurance. Second, efforts have been made to extend social insurance coverage to irregular and part-time workers. In addition, some initiatives are launched to include jobs located between employment and self-employment, namely non-standard work such as platform work. These developments illustrate how social insurance, traditionally designed for standard employment relationships, is adapting in response to different forms of work and ongoing changes in the labour market. Third, a minimum level of benefits or redistributive elements in the calculation of benefits have been introduced.

b) National Health Insurance and Long-Term Care Insurance for the Elderly

Disease and injuries result in medical treatment costs and loss or reduction of income. This is particularly challenging for individuals who earn a low income. In this context, the National Health Insurance (NHI) scheme is insofar an important instrument to guarantee a minimum livelihood as it partly alleviates financial burdens related to medical costs. Today, nearly the entire Korean population is covered under the NHI scheme. To ensure that persons assumed as economically vulnerable individuals can obtain and maintain eligibility, the contribution amounts can be partially reduced. Reductions apply for residents of agricultural and fishery districts, persons aged at least 65 years, individuals with a registered disability, etc. For instance, contributions may be reduced by 10–30 per cent for those aged 65 or older, depending on their income. However, daily wage earners and non-standard workers are excluded from the category of ‘insured employee’, and must instead pay the full contribution as district-based insured persons.³⁸ It is largely observed that this financial burden often discourages them from making contributions, resulting in their exclusion from NHI benefits.

Another shortcoming lies in the fact that medical care benefits are provided only in accordance with the relevant regulations. This means that certain types of medical treatments are classified as non-benefit and are excluded from coverage and must be paid by the patient in full. In addition, patients are required to partially cover the costs of medical care benefits (co-payment). The rate of co-payment varies by type of medical facility, namely clinics (30 per cent), hospitals (40 per cent), general hospitals (50 per cent) and tertiary hospitals (60 per cent). This may prevent patients from receiving adequate medical care benefit, potentially leading to the deterioration of their illnesses. To address this deficit, the NHI partially covers patient expenses that exceed a certain threshold. Due to these restrictions related to non-benefit services and co-payments, the NHI’s overall cost coverage remains approximately 63 per cent, which disproportionately impacts low-income earners.

Insured persons under the Long-term Care Insurance for the Elderly (LCI) scheme are also required to make a co-payment. Beneficiaries who

³⁸ On the constitutionality of this differentiated approach to levying contributions between employed and district-based insured persons in the National Health Insurance scheme, see. Decision of 2003.10.30, 2000 Hun-Ma 801, 15-2(2), pp. 134 ff.

receive home care pay 15 per cent, while those in care facilities bear 20 per cent of the costs. This co-payment requirement does not apply to recipients of medical care assistance, who are also exempt from paying contributions. The co-payment amount is reduced for individuals whose income and asset value fall below a given threshold. From the beginning, the LCI has prioritised financial stability; unlike the NHI, long-term care benefits are subject to a monthly cap. In 2024, it was set at KRW 1,672,700 for individuals with a long-term care rating I, and at KRW 597,600 for individuals with a long-term care cognitive assistance rating V. Expenses exceeding the monthly cap must be borne by the insured persons. If recipients are unable to cover these additional costs, they must rely on benefits provided under the Act on Welfare for the Elderly. The limited of the LCI inevitably places especially low-income earners in a difficult position. Recognising the gaps in protection against the long-term care needs of the elderly, the debate on reforms is ongoing to supplement the LCI and introduce a so-called integrated care system for the elderly. However, this initiative is still in its infancy.

c) National Pension Service

Under the National Pension Service (NPS), the guarantee of a minimum standard of living for insured individuals following retirement is reflected in partial subsidies for contributions of low-income earners. Contributions from employees and employers are partially subsidised, ranging from 40 per cent to 80 per cent, depending on the employer's size and the employee's income level. In addition, the NPS subsidizes three-fourths of the contributions for recipients of the job-seekers' benefit under the Employment Insurance Act for one year, helping them maintain their insurance coverage. The NPS incorporates redistributive elements in its pension calculation by factoring in both the insured individual's average monthly income and the overall average income of all insured members. This approach results in a more favourable pension calculation for low-income earners. For instance, the income replacement rate of pensions amounted to 92 per cent for the lowest income group compared to just 15 per cent for the highest income group. However, following the reforms of 1998 and 2007, the pension level for low-income earners has significantly declined. For instance, the average monthly pension of recipients with over 20 years

of insurance contributions amounts to KRW 1,036,854 per month. For those with only 10 to 20 years of insurance contributions, it amounts to KRW 419,461 monthly.³⁹ It is important to note that the livelihood benefit under the National Basic Livelihood Security amounts to KRW 623,368 for a single-person household.⁴⁰ This means that the national pension, particularly for low-income earners with shorter contribution periods, does not guarantee even the minimum means necessary to maintain a minimum standard of living.

Given that the national pension does not ensure a minimum livelihood, especially for low-income insured persons, there have been ongoing discussions in recent years about raising both the income replacement rate and the contribution rate. However, in light of the declining birthrate and ageing population in the Republic of Korea, the possibility of increasing the income replacement rate appears unlikely. Ultimately, it should be admitted that the NPS's capacity to guarantee a minimum standard of living for insured members is clearly limited, and this shortfall needs to be supplemented by adjusting the basic pension and the national minimum standard of living. This has been partly discussed above.⁴¹

d) Industrial Accident Compensation Insurance

Under the Industrial Accident Compensation Insurance (IACI) scheme, the guarantee of a minimum livelihood is provided through the provision of a minimum level of compensation. If an employee's average wage, which is used as the basis for calculating the benefit amount, is less than 50 per cent of the national average wage across all employees, they qualify for the minimum compensation benefit (a maximum limit of compensation benefits exists as well). As of 2024, the daily minimum amount was set at KRW 78,880, while the maximum daily amount was KRW 253,354. This mechanism introduces a degree of redistribution among beneficiaries, favouring low-income earners.

In recent years, efforts have been made to include new forms of employment, including platform work. The scope of this protection was expanded by the amendments of 2007 and 2022. In 2007, the concept of 'employee'

39 Ministry of Health and Welfare (n 2), p. 380.

40 See above n 29.

41 See Section III. 3. b).

under the IACI was decoupled from that in the Labour Standards Act, allowing IACI coverage to apply independently of labour law regulations. The IACI now covers specific forms of non-standard employment, regardless of the type of contract. This, however, falls short of providing comprehensive coverage for all individuals concerned, given that potential beneficiaries are enumerated in the legislation. They included, for instance, insurance solicitors, learning-aid tutors, golf caddies, door-to-door couriers, solicitors of credit card holders, drivers engaging in a designated service, etc. In 2022, a general coverage clause was introduced to extend protection to all forms of work, making it possible to include platform workers as well. Despite this legislative development, a significant number of individuals remain uncovered. This is largely due to the reluctance of both employers and employees to report employment relationships to the competent agency or their choice to apply for exemptions from the insurance.⁴²

e) Employment Insurance

Employment insurance has followed a similar trajectory as the IACI by expanding its coverage to include atypical forms of employment, such as platform-based work. Efforts are also underway to transition to income-based insurance,⁴³ with the aim of covering all income earners, regardless of the type of work they perform. However, the problem of implementation in the IACI, as mentioned above, holds true in the employment insurance system as well. Employment insurance includes a minimum benefit clause. If the recipient's daily wage based on which the benefits are calculated, is lower than the statutory minimum daily wage set by the Minimum Wage Act, the benefit is calculated on the basis of that minimum. The contribution rate of insured persons is partially subsidised for low-income earners.

42 On this issue, see. J. Cho, 'Application of Industrial Accident Compensation Insurance System for Platform Workers' Social Security Law Review 10 (2021)2, pp. 156 ff.; S. Cho, 'Legal Protection for Platform Workers – Focusing on the Industrial Accident Compensation Insurance Act and the Employment Insurance Act' Labor Law 79 (2021), pp. 111 ff.

43 On this policy direction, see J. Do, 'Issues and Tasks of Employment Insurance System' Korean Social Security Law 12 (2023)2, pp. 47 ff.

IV. Conclusions

The primary social security instruments in the Republic of Korea include a range of social insurance schemes, including the National Health Insurance, Long-term Care Insurance for the Elderly, the National Pension Service, the Industrial Accident Compensation Insurance, and Employment Insurance. These are supplemented by a scheme aimed at guaranteeing a minimum standard of living. This approach offers a distinct advantage: social insurance provides both normative and institutional stability, because it is financed primarily through contributions from the insured persons themselves. These benefits are protected under the constitutional right to property (Art. 21), and any changes to them receive political attention. However, it is evident that social insurance schemes do not explicitly aim to ensure a minimum livelihood for all citizens, nor is this objective a political goal. Within this limited function and based on their social character, social insurance schemes in the Republic of Korea contribute to ensuring a minimum standard of living by incorporating elements designed for this specific purpose. Moreover, social insurance schemes are currently focused on expanding coverage to include a broader range of insured individuals affected by evolving social and employment conditions. The reform measures have been outlined above. It remains to be seen whether they will ultimately fulfil their intended objectives in the future.

The emergence of poverty among new population groups, especially the working poor and the elderly poor, highlighted the urgent need to develop new social policy instruments. This was driven by the functional limitations of the traditional scheme for the guarantee of a minimum standard of living standard calling for innovative ideas and new measures. In response, the Basic Pension Act was enacted in 2007, followed by the Act for Occupational Promotion and Social Assistance in 2020. However, the Basic Pension Act still needs to clarify its policy choice between providing income security and offering relief for the poor. Meanwhile, the Act for Occupational Promotion and Social Assistance should establish its own system to complement both employment insurance, on the one hand, and the general scheme for guaranteeing of a minimum standard of living on the other.