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Social Exclusion and Legal System (5·Fin) — System Operation Through Personality —

Noriko HASHIBA¹

A theoretical and empirical investigations were conducted in the previous chapters (especially Chapter 5 and 6). Primarily, this examination pertained to the mechanisms that invoke trust in the system. Three hypotheses were tested regarding the relationship between social inclusion and trust: (1) personal trust (trusting other individuals) shifts to institutional trust (trust in the system) and guarantees access to that system (removes factors obstructing access); (2) personal trust functions as an alleviating agent of avoidant perceptions of laws derived from authority and is a prerequisite for establishing hypotheses (1) and (2); and (3) the existence of trust in oneself (self-affirmation) is an element indispensable to the acquisition of personal trust².

A commonality may be observed in the series of theoretical frameworks described in the previous chapters and in the three hypotheses mentioned above. There appears to be a major disconnect between the establishment of institutional features, such as the enhancement of legal institutions and the expansion of advice bureaus, and their use by the individuals for whom they are meant.

In particular, for people who are prone to social exclusion, there are significant gaps in the process that results in their actual utilization of the system. In addition, structural issues such as the establishment of new systems or the enactment of laws underlie these lacunae. These difficulties cannot be resolved merely by improving the institutional aspects. Thus,

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² Noriko HASHIBA (2015-2018), 'Social Exclusion and Legal System (1)-(4)', The Hokkaido Law Review Vol.66. (No.2-No.4), Vol.69 (No.4).

internalized self-alienation is one of the factors preventing such individuals from availing of the facilities provided by the system.

(I regard this feeling of refusal toward a legal entity itself to be “law rejection” in Vol.69. No.4.)

The points raised in the previous chapters elucidate that for people who are in the state of social exclusion, the impediments to judicial access cannot be resolved solely by effecting adjustments to the legal system such as expanding civil legal aid or adding more judicial access points.

A series of analyses yielded the awareness that if there is a disparity between the system as it currently exists and its utilization by socially excluded individuals, the personal contact is vital to the bridging of that variance. Nevertheless, there are problems associated with the personal elements themselves.

One such difficulty pertains to the fact that the personal is highly contingent on specific circumstances. A second dilemma relates to adverse effects arising from an overreliance on the key person who creates the personal elements.

It seems obvious from the effected analyses that the personal element is indispensable and that it is an important component of the practical functioning of the system. In principle, it relaxes the rigidity of the system. Nevertheless, it is also clear that that there is an incompatibility between the personal and the systemic and that the stability of a system is lost if it relies too heavily on personal elements.