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# Corruption and Anti-Corruption Policies in Korea

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## ABSTRACT

Korea is a developed OECD country and a young democracy with a relatively effective governance structure. It is often described as a very successful case of state-led economic development and praised for the successful transition from an authoritarian “developmental state” to a consolidated democracy since the 1980s. The Asian financial crisis that hit Korea in 1997 and the election of the first president coming from the opposition in the same year have been another critical juncture. Since then substantial institutional reforms have consolidated democracy, strengthened civil rights and improved the quality of governance. The country has a well-trained, meritocratic bureaucracy and a largely independent judiciary. Despite the substantial improvements in transparency, democratic accountability and prevention of corruption, many problems remain. Democratic behavior is still not deeply rooted in Korean society and is often undermined by entrenched hierarchical and authoritarian thinking. Korean society is divided into competing networks in which personal trust derives from regional origin and high school/university networks. These personal networks are grouped around powerful individuals and compete for influence, power, jobs and public resources. Democratic changes in governments have ensured that not a single group was able to completely monopolize power, but the competition of networks has prevented the emergence of a universalistic attitude oriented towards the common good. In sum, the distribution of resources is on the border between competitive particularism and ethical universalism with a general positive tendency since the beginning of democratization.

## KEYWORDS

South Korea, corruption, anti-corruption policies, governance, good governance, democracy

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## Acronyms

ACRC	Anti-Corruption and Civil Rights Commission
BPI	Bribe Payers Index
BTI	Bertelsmann Transformation Index
CCEJ	Citizens Coalition for Economic Justice
CEO	Chief Executive Officer
CPI	Corruption Perception Index
CSOs	Civil Society Organizations
DAPA	Defense Acquisition Program Administration
DPA	Defense Procurement Agency
GePS	Government e-Procurement System
ICIJ	International Consortium of Investigative Journalists
KICAC	Korea Independent Commission Against Corruption
KONEPS	Korea online E-Procurement System
MRG	Minimum Revenue Guarantees
NGOs	Non-Governmental Organizations
OECD	Organization for Economic Co-operation and Development
PPP	Public-Private Partnerships
PSPD	People's Solidarity for Participatory Democracy
SGI	Sustainable Governance Indicators
TI	Transparency International

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## I. Introduction

Korea is an OECD country with a per capita income of about 23,000 USD similar to the level of Southern European countries such as Greece and Slovenia. It is young democracy with a relatively effective governance structure and an active civil society. The country is often described as a very successful case of state-led economic development and praised for the successful transition from an authoritarian “developmental state” to a consolidated democracy since the 1980s. The Asian financial crisis that hit Korea in 1997 and the election of the first president coming from the opposition in the same year can be seen as critical juncture. Since then substantial institutional reforms have consolidated democracy, strengthened civil rights and improved the quality of governance. Korea has a well-trained, meritocratic bureaucracy and a largely independent judiciary. However, despite the substantial improvements in transparency, democratic accountability and prevention of corruption, many problems remain. Particularly weak formal institutions, the concentration of economic power and the intense political struggle between different factions undermine the fight against corruption. In this sense, Korea still has a long way to go in order to become a clean society with a fully accountable governance structure that is free of the abuse of power. In sum, the distribution of resources is on the border between competitive particularism and ethical universalism with a general positive tendency since the beginning of democratization, but also some contradictory trends in the last couple of years. Particularly since 2007 and the election of President Lee Myung-bak, many observers detect a stagnation or even deterioration of anti-corruption policies and good governance.

Corruption is increasingly acknowledged as a major problem and diverse public institutions and civil society organizations are engaged in the struggle for transparency and accountability. Particularly since 1997, the acceptance of corruption in the public is dramatically declining. Regarding government institutions, the Anti-Corruption and Civil Rights Commission (ACRC) were created in February 2008 by merging the Ombudsman of Korea, the Korea Independent Commission against Corruption and the Administrative Appeals Commission. Some criticize that the ACRC is not as independent as its predecessors since the president plays the dominant role in selecting ACRC commissioners.

There exists a wide range of civil society organizations, which are engaged in the fight against corruption such as the Citizens’ Coalition for Economic Justice (CCEJ), People’s Solidarity for Participatory Democracy (PSPD), and Transparency International (TI) Korea. They have expanded their influence in curbing corruption by blacklisting corrupt politicians, drafting policy guidelines and contributing in enacting anti-corruption legislation. Under the

Lee administration (2008-2013) some of these groups have complained that they faced disadvantages such as cutting of public funds.

Former Korean presidents from different political parties have been targeted by anti-corruption investigations involving themselves, their family members and close aides. The Presidency of the conservative Lee Myung-bak who was in office from 2008 until February 2013 saw his legacy tainted by a corruption conviction against his brother, senior presidential aides and former senior officials. President Lee was also accused of using his power to issue special pardons for aides convicted for bribery (Chang 2013). His immediate predecessor the liberal President Roh Moo-hyun suffered also from bribery investigations implicating aides and relatives. He committed suicide in March 2009 after being questioned by state prosecutors in connection with accusations of corruption involving family members. In the case of former President Roh prosecutors stopped all investigations after Roh's death and never provided proof for corruption directly related to him. Accusations of corruption can thus also be misused as a political weapon to discredit or silence political opponents.

While the public sector has made progress in fighting corruption, the corporate sector has shown much less visible improvements. Collusion and unaccountable corporate governance structures remain a big problem in Korea. There have been numerous corporate scandals involving family controlled conglomerates (chaebols) and there were frequent corruption convictions among top business leaders during the last couple of years. In August 2012, the chairman of the Hanwha Group was sentenced to four years in jail. In January 2013, the chairman of SK Holdings Co Ltd's was jailed for four years on embezzlement charges (Anti-Corruption Authorities, 2013). As a matter of fact, business leaders were often pardoned by the president after serving only a small fraction of their prison terms. It remains to be seen, how the new administration under President Park Geun-hye that came to power in February 2013 is willing and able to change this practice.

## **II. State of Governance**

The state of governance in Korea reflects the status of the country as a young democracy and OECD member. Within the OECD, Korea is positioned below the average, for example, it ranks 26<sup>th</sup> among 31 OECD member countries in the 2011 Bertelsmann Sustainable Governance Index concerning the status of governance and 22<sup>nd</sup> when it comes governance management ability (Bertelsmann-Stiftung 2011). Compared with a broader set of countries including many emerging economies and developing countries, Korea fares much better and most World Bank Governance Indicators consider the country to be clearly above the average in the 50-75<sup>th</sup> or 75-90<sup>th</sup> percentile. In 2012, Korea compares favorably with the

regional average in Asia and receives a top percentile rank of 84.2 out of the perfect score 100 in the category of government effectiveness. In the field of rule of law and regulatory quality, Korea compares also favorably above the mean, while in voice and accountability, political stability and control of corruption it lacks behind. In control of corruption Korea scored 70.3 out of 100 (World Bank 2013).

According to the Transparency International Corruption Perceptions Index (CPI), Korea ranked 45th out of 176 countries in 2012. It scored 56 out of 100 with 100 representing a perfectly clean governance system. Korea ranked 13<sup>th</sup> out of 28 countries in the Transparency International Bribe Payers Index (BPI) in 2011, remaining at the same rank as compared to the 2008. In the 2011 Financial Secrecy Index, a measure ranking national jurisdictions according to the level of financial secrecy, Korea was placed at 28<sup>th</sup> out of 71 countries (Transparency International 2013b).

The results of the 2012 Integrity Assessment conducted by the ACRC evaluate the integrity level of public organizations substantially higher at a score of 7.86 out of 10 compared to the TI report. In this survey respondents included 160,854 Korean citizens (public service users), 66,552 staff members of public organizations, and 15,491 “policy customers” such as academic associations, reporters accredited to public organizations, aids of Assemblymen, affiliated organizations, and occupational agencies. The assessment of the integrity of public organizations was highest by citizens (8.10 points), followed by staff members (7.85 points) and policy customers (6.86 points).

**Table 1. The integrity level of public organizations**

	<b>Overall Average Assessment</b>	<b>Average Assessment by Citizens</b>	<b>Average Assessment by Staff Members</b>	<b>Average Assessment by Policy Customers</b>
<b>Integrity level (out of 10 points)</b>	7.86	8.1	7.85	6.86
<b>No of Respondents</b>	242,897	160,854	66,552	15,491

Source: Anti-Corruption and Civil Rights Commission (2012)

The share of the respondents, who actually admitted having paid a bribe, differs between TI and ACRC surveys. According to the ACRC report, 1.0 percent of citizens, who participated in the survey, paid bribes to public officials or entertained them in bars or other recreational activities over the past year. Compared to 2011, this was a slight increase of 0.8 percent. According to the 2013 TI global corruption barometer, the share of citizens’ paying bribes was three times as high at 3% (Transparency International, 2013a). The ACRC assessment

revealed that among the bribery payers (1%) motivations for bribing someone were due to “a custom or a courtesy” (44.6%) and trying to “prompt business processing” (27.1%). As part of the same report, there were also some increases in the rate of experience in illegal/undue budget execution (7.4% in 2011 compared to 9.5% in 2012) as well as in undue work order (5.8% in 2011 compared to 8.0% in 2012) (Anti-Corruption & Civil Rights Commission, 2012).

Despite the general favorable data and the large improvements in the last years, many problems and challenges remain. Korea is a society in which personal networks still play a very important role and these networks often compete with a winner-takes-it-all attitude. This is particularly pronounced during the government transition period when a large amount of high-ranking positions are shuffled to make place for confidants of the new president. Favoritism, paternalism and corruption remain serious problems. Values of perception of corruption in Korea persist relatively high and have even deteriorated in the last couple of years during the Lee Myung-bak administration (see section IV). In the 2012, TI corruption perception index (CPI) Korea dropped to rank 45, two places down compared to 2011 and six places down compared to 2009. Of course, perception of corruption is not a perfect measurement for actual corruption, because it can also reflect a better awareness of corruption and the success of the democratization process such as a free press and a vibrant civil society that are exposing corruption in the public and private sector (Schopf, 2011). In a politically divided country like Korea, accusations of corruption are also used as a political weapon. Particularly hearings of candidates for ministers and high government officials are well known for careful investigations of alleged corruption and unethical behavior. In the preparation period of the current Park administration this scrutiny caused numerous candidates to drop out and substantially delayed the nomination process. Unfortunately, this political weapon can also be misused by governments to destroy or silence political opponents.

Compared to the central government, corruption is an even bigger problem on the level of regional and local governments particularly in procurements for construction projects where personal networks are particularly close and transparency is more difficult to achieve (Interview TI). Corruption as it is defined in this paper being a misuse of power is most serious in the business sector. Business leaders often and even routinely misuse their power ignoring formal institutional rules for example those protecting employees or subcontractors. In a society with strong personalized networks, loyalty towards certain businesses or business networks often seems to be a more important incentive than constraints provided by formal rules. Generally, anti-corruption laws are much harder to enforce in the private than in the public sector, because anti-corruption agencies lack the mandate and power to

investigate and penalize private corporations bribing official. With the enactment of the Act on the Protection of Public Interest Whistleblowers in September 2011 there has been some improvement. Private sector employees who report public interest violations can now be protected along with public sector employees. Until the end of September 2012, 14 requests were made for protection and relief, such as the guarantee of a person's status against disadvantages, etc. As of the end of September, a total of 4 cases were protected, including 3 cases of protective measures and 1 case of the guarantee of a person's status (ACRC Korea Annual Report 2012: 79). Therefore corruption has still been persistent in large parts of the Korean private sector until today.

### **III. Mechanisms**

There are many different reasons for the challenges the Korean governance system is facing. Among them the legacy of the authoritarian regime and the concentration of economic power are among the most important ones. Until 1987, during the times of the military dictatorship, Korea was ruled by a regime, which was very much focused on economic growth with little respect for human rights, democratic participation, transparency and accountability of the government. In 1987, Koreans successfully overthrew their authoritarian regime and embarked on an impressive process of democratization. However, this process remains incomplete. In the eyes of many observers Korea is still a "defective" (Croissant 2004) or "illiberal democracy" (Zakaria 2004). While formal democratic institutions like elections are intact and largely consolidated, hierarchical thinking and top-down decision making processes with little accountability remain pervasive. Personal networks and factionalism tend to trump formal institutions and a universalistic orientation. Particularly the political and economic elites largely stick to a deeply entrenched system of patronage. Politics and business tend to be organized like "families" with personalized ties and trust, while a society wide perspective and institutionalized way of generating trust lacks behind. Elite members see their role still as the benevolent "head of the household" supporting their constituencies and personal networks, while subordinates are expected to follow orders staying passive. In this context, networks between politicians, bureaucrats and businesses, which originate in the close collusion during the existence of the authoritarian "developmental state", are particularly problematic.

Historically, a hierarchical thinking is very deeply entrenched and it still difficult for younger or lower ranked colleagues to criticize elders or their superiors. Cultural factors such as Confucianism are often used to explain this stability of hierarchies in Korea. Indeed, the close connection between the state and religion-like culture might explain deficiencies of governance compared to European legacies of a more competitive relationship between

state and religion. On the other hand, cultural explanations overlook the major improvements that have been made in Korea. Cultural explanations based on Confucianism also fail to explain why in many of the governance rankings such as the Bertelsmann Sustainable Governance Index (SGI) and Transformation Index (BTI) as well as TI-CPI Korea scores similarly or better than some Southern and Eastern European countries with strong Christian roots. Countries like Greece, Portugal, Hungary or the Czech Republic have very different cultural roots compared to Korea, but are on similar levels of economic development and share a similar authoritarian legacy.

The high level of economic concentration contributes to collusion and corruption as some domestic markets are dominated by one company or by a few companies fiercely competing against each other in acquiring government contracts or support. Particularly liberal governments under Kim Dae-jung (1998-03) and Roh Moo-hyun (2003-08) tried to strengthen market forces by opening the domestic market, inviting foreign competitors and investors and strengthening minority shareholders' protection in order to increase competition, improve transparency and combat "crony capitalism" (Kalinowski 2008). However, the attempt to transform Korea into a "market democracy" was largely ineffective in curbing collusion, because big business groups learned how to co-opt opposition and use the new institutions in their favor (Kalinowski and Cho 2009; Kalinowski 2009). Many foreign investors also had little interest in improving transparency and rather used corruption to have advantages in taking over Korean companies or banks (Cho and Kalinowski 2010). Market opening did not reduce crony capitalism, but rather led to its internationalization. While the government occasionally cracks down on corruption within business, it seems often to do so not in order to enforce law and order, but to extract concessions from business. The routine in which the president pardons convicted business leaders has led to a high degree of cynicism in the public and has further undermined trust in the rule of law.

Korea has a vibrant civil society and diverse media landscape, particularly if one includes blogs and online media. The mainstream media is often characterized as largely conservative and especially radio and TV programs are criticized for the lack of investigative journalism, being depoliticized and focusing on infotainment. However, critical newspapers and journals do exist and the Internet provides a powerful platform for scandalizing corrupt behavior. Unfortunately, the government has not embraced citizen activism on the Internet as a tool for transparent governance. Reporters without Borders accused South Korea of internet censorship, limiting anonymity in the web and prosecuting bloggers for posting critical comments on the government. Consequently, the organization put the country under surveillance for its "internet enemies" list (Reporters Without Borders 2013).

## IV. Trends

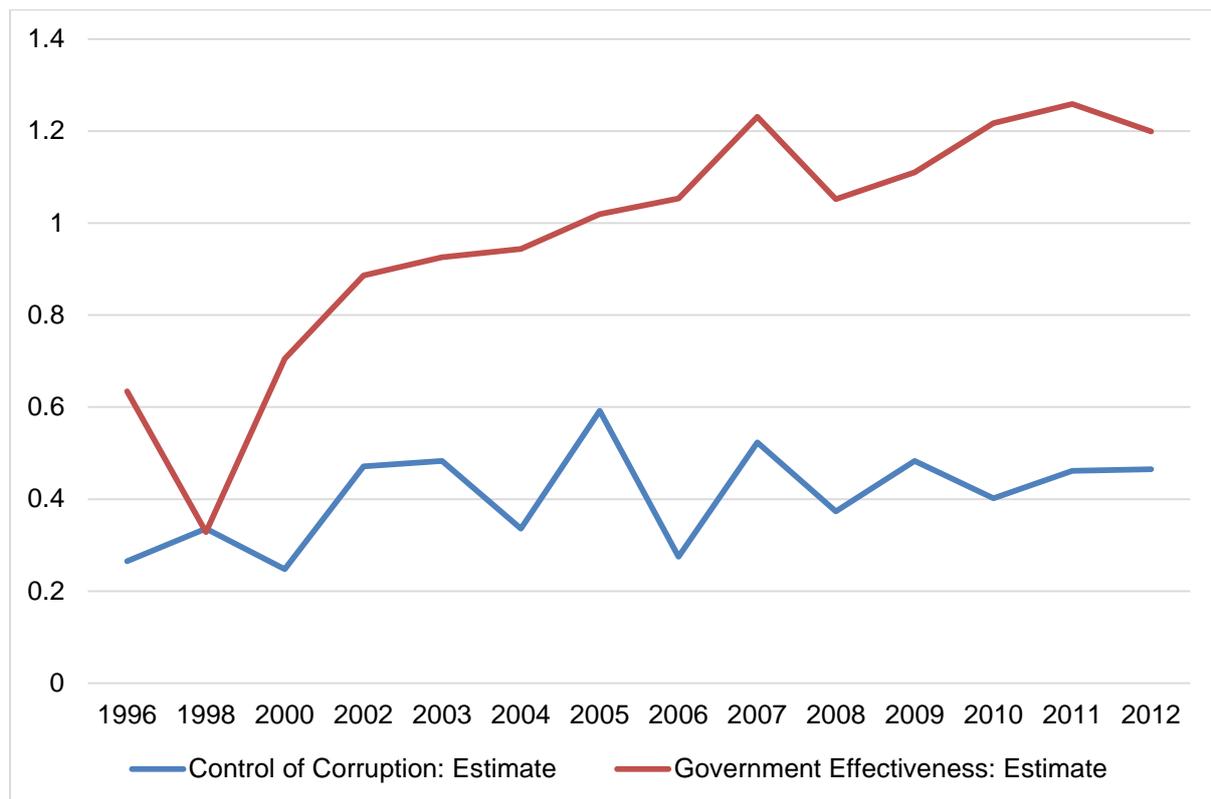
The long-term trend of the quality of governance and control of corruption is clearly positive. Critical junctures were the democratic revolution of 1987, the Asian financial crisis of 1997/98 with the election of the first president from the opposition and the swing back to conservative rule in 2007. The Worldwide Governance Indicators show largely a positive trend except in the fields of voice and accountability and political stability (World Bank 2013). Korea's score in the government effectiveness increased from 0.63 (on a scale from -2.5 to +2.5) in 1996 to 1.2 in 2012, although improvements stalled since the change of government to the Lee Myung-bak administration in 2007. The value of the control of corruption also increased, but much less substantial from 0.27 in 1996 to 0.47 in 2012 (Figure 1). The TI CPI Index also shows a largely positive trend (table 2) although it is difficult to compare TI scores over time. Recent falls in rankings indicate that Korea has been less successful than its direct peers. Particularly under the Lee Myung-bak administration from 2008-2013, progress seems to have stalled and Korea slipped back from the 39<sup>th</sup> position in 2009 to the 45<sup>th</sup> position in 2012 (Transparency International 2012). Perception of corruption can be misleading as improvements in transparency lead to more revealed scandals that might affect public perception. Institutional indicators like the share of competitive versus non-competitive procurement contracts show a very positive trend towards a more competitive framework (Schopf 2011: 29) although competition itself does not necessarily reduce corruption automatically, if the regulatory framework is weak.

**Table 2. The TI Corruption Perceptions Index (CPI) and Rank of Korea from 2001 to 2012**

Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
CPI	4.2	4.5	4.3	4.5	5	5.1	5.1	5.6	5.5	5.4	5.4	56
Rank	42	40	50	47	40	42	43	40	39	39	43	45

Note: Since 2012, the index has been changed into from 10 to 100 point scale. (Source: Transparency International).

**Figure 1. Trends of Korea's World Bank Governance Indicators**



Source: World Bank (2013)

Trends of mechanisms of corruption are more complex and contradictory. On the one hand particularly among the younger generation, Korean are much more likely to report and scandalize corruption (Interview with ACRC, TI). Public officials are also more aware of international standards on corruption and how to avoid the impression of collusion. On the other hand, the economic and political elite remains dominated by the older generation socialized during the military dictatorship. Under the Lee and Park administration, most positions were filled with senior politicians and bureaucrats that already held leading positions before the first civilian government took office in 1993. Particularly the last presidential election in December 2012 was crucially decided by the votes of the older generation, who overwhelmingly elected the daughter of the former military strongman. This electoral behavior indicates that a generational change in politics has been postponed as voters socialized during the military regime still play the decisive role in elections due to their high turnout.

Even among the young generation, trends are not without contradictions. While they are more active to file complaints and demand their rights, the young generation is caught in a cutthroat competition for jobs. The merciless competitive environment in Korea breeds a

form of egoism and opportunism that is not aiming for universal goals, but individual advantages. Within the weak institutional framework, this competition creates a potential vulnerability for collusion and corruption in order to advance their job prospects and careers.

## **V. Detailed Diagnosis**

### **Power distribution**

Free and fair elections are held in Korea since the democracy movement forced the military government to step down in 1987. Since then Korea has been described as a particularly successful case of gradual transition to democracy (Croissant 2004). After the former military leader Roh Tae-woo was elected in the first free election in 1987, the first civilian president, Kim Young-sam won the popular vote in 1992. In 1997, Kim Dae-jung, the first president coming from the opposition was elected followed by another liberal President Roh-Moo-hyun who won the election in 2002. In 2007 government was recaptured by the conservatives with the election of Lee Myung-bak followed in 2012 by Park Geun-hye, the daughter of the former military dictator Park Chung-hee. In many respects Korea is a consolidated democracy with orderly changes in government from conservative to liberal governments and back again to conservatives. Beneath the surface of this textbook transition, however, many problems persist and a few powerful social groups dominate Korean political and economic decision making through informal networks.

Personal networks built in schools and universities play a crucial role in Korea. Graduates from the three top ranked schools in Korea, namely Seoul National University, Korea University, and Yonsei University (SKY) are concentrated in powerful state positions. Regarding the heads of five main institutions – the Chairman of the National Assembly, the Chief Justice of the Supreme Court, the Prime Minister, the Chief Justice of the Constitutional Court, and the head of the Central Election Management Committee – 76% of them were educated at SKY universities during the last 20 years. Similarly, 71% of the deputy Prime Ministers and the ministers of each department have graduated from these three universities (Kim and Shin, 2012). Overall, specific regional factions and school networks have enjoyed privilege and this pattern is very consistent over time.

Regionalism is another important variable in the competition of different groups for political and economic influence. Political parties are organized along regional lines with strongholds of the conservative party in the Southeastern (Youngnam) region and of the Democratic Party in the Southwestern (Honam) region. To a certain degree, the Roh Moo-hyun administration was an exemption from this regional factionalism as he came from the Southwestern region while running for the Democratic Party with its strongholds in the

Southwest. Roh was also different, because as a human rights lawyer with only a high-school diploma he did not have an elite background (Pastreich 2005).

Under the conservative President Lee regionalism strengthened again. He originates from the Southeastern Youngnam region and assembled his transition team and close aides from the Youngnam region who graduated from his alma mater Korea University. According to a newspaper article from the Hankyoreh, church based networks also recently have gained new influences under the Lee administration. The president himself was often criticized that he would favor fellow church goers of the Somang Church, an organization which he has been a member of for the past 20 years (Hankyoreh 2007).

To a certain extent, there is autonomy for 'loser' groups to exercise voice through elections, civil society groups and demonstrations. When the conservative majority in the parliament tried to impeach President Roh, tens of thousands of particularly young people gathered in different cities with candles to protest against the decision and to support Mr. Roh. The public stance reflected on these candlelight vigils subsequently led to a dramatic victory of the Uri party, which Mr. Roh supported at the National Assembly election in April 2004. The Uri party captured 152 of 299 seats in the National Assembly and it was the first time in 43 years that a liberal party won the majority in parliament. The backlash against the impeachment shows that Koreans are very alert to guard their democracy against actions that are perceived as undemocratic. Kihl goes even a step further and calls Roh's victory with popular support "a movement away from the old politics toward the new politics, thereby overcoming 'regionalism and bossism' in party politics" (Kihl 2005).

Genuine drivers of change are the media sector as well as the vibrant civil society. Korea has a vibrant and diverse media sector, with numerous cable, terrestrial, and satellite television stations and more than 100 daily newspapers in Korean and English. Yet three big conservative newspapers dominate the print media in Korea with a clear conservative political bias. Furthermore, in 2012 Freedom House rated Korea's media as "partly free" not only because of heavy influence from large conglomerates and major corporations on the newspapers for advertisement but also because of severe political interference on the main TV channels by the government. According to Freedom House, freedom of expression in Korea has been declined noticeably since the inauguration of former president Lee Myung-bak in 2008 (Freedom House 2012).

Civil society groups play a crucial role in Korea and are highly respected. According to the Edelman Trust Barometer in 2011 (Edelman 2011), NGOs reach a level of 62% and are trusted much more than other institutions such as businesses (46%), the government (50%)

and media organizations (53%). Some NGOs such as the Citizens' Coalition for Economic Justice (CCEJ) and the People's Solidarity for Participatory Democracy (PSPD) are very influential in shaping public opinion. The CCEJ covers a wide range of issues including economic justice, corruption, reunification with North Korea, urban problems, information and science, and local autonomy. As for the PSPD, its so-called "action groups" include Transparent Society, Judiciary Watch, National Assembly Watch, Taxpayers' Movement, Reclaiming Basic Rights, Center for Economic Reform, and Committee for International Solidarity (Kim, 2009).

Kim (2006) highlights three major activities done by NGOs: 1) "blacklist campaign" led by the Citizens' Solidarity against corrupt and incompetent politicians in general elections; 2) playing active roles in the policy process under the Kim Dae-jung and Roh Moo-hyun governments; and 3) the new web-based civic activism. The Roh administration took input by civil society organizations seriously and sought to incorporate their ideas into official policy-making. Also, representatives of civil society were hired in the cabinet or on advisory commissions. However, the Lee administration did not continue this inclusive approach and returned to a more traditional top-down principle of governing. Since that time, CSOs complain about lacking access and exclusion from public funds. On an organizational level, Korean NGOs still suffer from organizational weaknesses in terms of their membership base as well as human and financial resources.

One reason why civil society groups are so influential and important is the weakness of political parties in Korea. Korean political parties are assessed as "underinstitutionalized and ineffectual" (Kim 2012). Parties are organized around powerful individuals and frequently split, regrouped and renamed. Just before the 2012 presidential elections, both the Conservative and the Democratic Party changed their names. Politicians and even members of parliament frequently change their party affiliation. For example, in the 2012 Presidential elections, former president Kim Dae-jung's close aides and Rhee In-je joined the Park Geun-hye camp under the statement of national grand unification (Ji 2012; Chosun Ilbo 2012). According to a newspaper article in 2010, both the conservative and the democratic party recruited people who worked for other parties to increase their chances of capturing votes from the opposition (Lim 2010).

The frustration of many Koreans with Korean political parties gave rise to a new type of politicians, who claim to be outsiders not tainted by the existing and corrupt political system. For example, Ahn Cheol-soo who is a professor at Seoul National University and the CEO of the software company AhnLab became increasingly popular and gained public support during his race during the 2012 Presidential election. Although Ahn eventually gave up his

candidacy, he proved that an outsider is able to influence the political discussions and could eventually affect the outcome of elections (Kim 2012). In 2013, Ahn has become a member of parliament and is preparing the foundation of a new political party that is aiming at overcoming the problems of the old, personalized party system.

### **State autonomy from private interest**

Korea has often been praised for its efficient bureaucracy, state capacity and relative state autonomy. It was one of the most successful cases of a “developmental state” successfully planning and implementing national economic development strategies through control of banks, support of industrial learning, infant industry protection and export promotion (Woo-Cumings 1999; Kohli 1994; Woo-Cumings 1991; Amsden 1989; Wade 2004). Peter Evans further developed the concept of state autonomy and highlighted that development planning in Korea has been particularly successful compared, for example to Latin American “desarrollo” regimes, because state autonomy was embedded in bureaucracy-business networks (Evans 1995).

Korea has a permanent merit-based bureaucracy. This bureaucracy emerged from the Confucian tradition (Mo and Weingast 2009) of bureaucracy and the Korean version of “capitalist planning” that was based on the Japanese model of the “developmental state” (Johnson 1999; Johnson 1995; Johnson 1982; Woo-Cumings 1999). Already since the Park Chung-hee military dictatorship, the bureaucracy is to some degree protected from political intervention. There are several laws and regulations for public officials with the goal to prevent corruption and collusion between the private and public sector such as the Public Service Ethics Act, the Act on Anti-Corruption and the Code of Conduct for Public Officials and the Criminal Act. The bureaucracy in Korea is meritocratic and highly skilled. To become public officials, applicants have to go through highly competitive examinations; public officials are generally appointed based on written tests and occupational performance under the State Public Officials Act (Article 26). Payment is lower compared to the private sector, but employment is more secure and pension benefits are much better. Additionally, at least for junior civil servants annual bonuses’ constitute a big portion of total pay and can reach 500-600 percent of a monthly salary. For senior civil servants the share of bonuses is lower (Global Integrity: South Korea Country Report 2009).

Despite the general character of a stable bureaucracy, the politicization of the public sector remains a problem particularly in the higher ranks. Every change of government is accompanied by a massive change of staff not just in the ministries, but also in public institutions and even formally independent or private institutions. When the new Park

administration came into power in early 2013 even the CEOs of formally private owned banks were replaced in order to facilitate a good relationship with the government (Yonhap March 22, 2013). On the other hand, due to the frequent leadership changes, control and accountability of bureaucracies to the political leadership is limited. The average tenure of a minister in Korea is only about one year and bureaucrats have overall little incentive to follow the orders of political leadership.

Institutionally, the state is autonomous from private interest, but in practice personal networks between bureaucracy, politics and business have the tendency to undermine state autonomy. In a 2013 article in the Korea Times, TI Korea Secretary General Kim Seong-su highlighted the corruption in public construction and infrastructure projects when he pointed out that “(former) President Lee is often confused when drawing lines between private and public interests” and that the major four-river refurbishment project is “an example of showing favoritism to acquaintances and nepotism because his administration awarded construction projects to businesses close to his aides and family” (Kim 2013). This 22 trillion won project pushed by the Lee administration is now under the investigation of prosecutors for corrupt deals. According to another news article, Hyundai Engineering & Construction, where President Lee previously worked for as a chief executive officer is accused of corruption and the creation of a slush fund in connection with the four-river project (Kim 2013).

Korea has multiple institutions aimed at preventing undue lobbying and corruption. The Anti-Corruption and Civil Rights Commission (ACRC) is Korea’s main institution in charge of fighting corruption. President Lee formed it in February 2008 by way of merging the Korea Independent Commission against Corruption (KICAC), the Ombudsman and the Administrative Appeals Commission. The President appoints the Chairman and Vice-Chairman based on the recommendation of the Prime Minister. The President then appoints the standing commissioner based on the recommendation of the Chairman. The non-standing Commissioner is appointed or commissioned by the President. Among non-standing commissioners, two are appointed or commissioned on the recommendation of the National Assembly and the Chief Justice of the Supreme Court, respectively. In February 2012, the appointment procedure was changed again. The non-standing commissioner is appointed or commissioned by the President. The National Assembly and the Chief Justice of the Supreme Court appoint or commission three non-standing commissioners, respectively. <Amended by Act No. 11327, Feb. 17, 2012>. Many NGOs like TI have criticized the ACRC, which in comparison to the KICAC under the previous administration, is less independent. Before 2007, only one third of the commissioners, one chairperson and

two standing members, were chosen by the president while the other six members were equally appointed by the National Assembly and the Chief Justice of the Supreme Court.

The mission of the ACRC is to: 1) formulate and implement anti-corruption policies at the national level, 2) assess integrity of public sector entities, 3) evaluate the anti-corruption initiatives taken by public organizations and encouraging them to make voluntary efforts to tackle corruption, 4) amend ambiguous, corruption-vulnerable laws and institutions and confirming the implementation of ACRC's recommendations, 5) conduct corruption impact assessment, 6) protect and reward whistleblowing in the public and private sectors. Many criticized the merger in favor of a separate independent anti-corruption agency, such as the KICAC before it was merged in 2008. In addition, the ACRC does not have a mandate to independently initiate investigations, but only acts upon complaints. It does not have competences like a prosecutor, but it can request cooperation from the relevant agencies, such as public prosecutor's office. The ACRC publishes its activities annually and reports to the National Assembly and the President.

The Act on the Protection of Public Interest Whistleblowers came into force in September 2011. It protects whistleblowers in both the public and private sector. In September 2011, the ACRC expanded the whistleblower report center to cover public interest whistleblowing cases. The ACRC provides monetary rewards of up to USD 2 million, if whistleblowers help to uncover corruption or recover public funds. They can report via a telephone hotline and report under their real names, however their personal information are confidential and protected by law. As of October 2011, the ACRC had received a total of 140 complaints public interest whistleblowing. The introduction of the Act on the Protection of Public Interest Whistleblowers is seen as a major progress, because before private sector employees who reported cases of corruption did not receive sufficient protection from incrimination (Global Integrity: South Korea Country Report 2009).

## **Public allocation**

The public budgeting process is generally transparent, but transparency and accountability of public fund allocation differ. For example, the strictly scrutinized main budget is often accompanied by supplementary budgets in which the government has more discretion. In principle, the norm in public allocation of public goods and services is to cater to everybody. Yet rent creation in the Government Fund can still be done through bureaucratic discretion (Park 2008). In 2011, a new law was introduced that requires mandatory participation of residents during the budget formulation process of all local governments.

Regarding fiscal transparency, the 2012 Open Budget Index, which measures budget transparency, participation and accountability, notes the increase of the score of South Korea from 66 out of 100 in 2008 to 71 in 2010 and 75 in 2012. The report also indicates that Korean citizens have access to most of the significant information. According to the report, Korea is the best performer among the countries surveyed in 2012 on public engagement (International Budget Partnership 2012). The Citizen Audit Request System in South Korea allows citizens to request special investigations by the national audit office into government programs with suspected corruption or inefficiencies.

Korea is a leading country in the field of e-government. The online system allows to track e-applications. In June 2006, the ACRC launched the [www.epeople.go.kr](http://www.epeople.go.kr) portal by merging different online channels for civil complaints and petitions. In 2011, e-people won the United Nations Public Service Awards 2011 in the category of "Advancing Knowledge Management in Government."

Public procurement is particularly vulnerable to bribery. The efforts to introduce a competitive system of public procurement have been largely successful. The share of competitive contracts has increased from about 50% in the 1980s to 80-90% at the end of the 1990s (Schopf 2011: 29). Regulations for public procurement projects have been strengthened and tenders are now announced on the PPS website with detailed information on the project scope and contact information. In October 2002, the Korea government launched the Government e-Procurement System (GePS), a portal for public procurement, which digitalized the entire process from order to payment for all public organizations. In January 2006, the Defense Acquisition Program Administration (DAPA) was established to replace the former Defense Procurement Agency (DPA). The DAPA is tasked to ensure transparency in the defense procurement process. According to the OECD Phase 3 Report 2011, local governments and public organizations carry out procurement activities through the Korea online E-Procurement System (KONEPS) and "Fingerprint Recognition e-Bidding" (OECD 2011). KONEPS is a database collecting information on contractors, including previous sanctions imposed on a company making this data available to governmental bodies. This system can help to identify corrupt companies and exclude them from future bidding processes. The OECD Working Group found that since the introduction to KONEPS, transparency within procurement processes has significantly improved (OECD 2011). According to the law, major procurements require competitive bidding, and strict formal requirements are in place to limit the extent of collusion and corruption. So far, however, unsuccessful bidders are not able to request an official review of the bidding process and therefore cannot challenge the decision in the courts. In practice, companies guilty of major

violations of procurement regulations, such as bribery, are almost always prohibited from participating in future procurement bids and must go through a mandatory cooling-off period of two years (Global Integrity: South Korea Country Report 2009). By law, the government is required to publicly announce the results of procurement decisions; however, there is no requirement to publish changes made to the contracts after the end of the bidding process.

Public-private partnerships (PPP) have bred a new kind of corruption and particularly the minimum revenue guarantees (MRG) that are often part of PPP have become a major target of criticism. For example, the Light Rail Transit of Yong-in City is an exemplary case of the public-private partnerships marred by corruption over the last ten years. The Light Rail Transit was one of the mayor's policy promises and pushed as a pork-barrel project and construction began in 2005. It was revealed that the various stakeholders received bribes from the private partners in each and every step of the project from estimation of the regional traffic demand to the city council's decision-making process. As a result overly optimistic forecasts were made and exposed problems of the project were neglected. Moreover, it was also discovered that the mayor imposed pressure to hire subcontracting companies run by his close aides including his brother (Han 2013). The MRG clause that was part of the Light Rail Transit contract further added to the burden for the taxpayers and contributed to an estimated 3.4 trillion won deficit in the Yong-in City budget (Chun 2012).

Despite the many problems and occasional setbacks, the trend in public allocation is generally favorable. Using a methodology developed by Katz and Rosenberg (1989), Park (2008) calculated that the size of rent seeking in Korean government budget allocation has decreased since 1975. The average of rent seeking<sup>1</sup> was highest under the two military regimes of President Park Chung-hee with 0.12% of GDP and the Chun Doo-hwan administration with 0.08% of GDP. Rents had the smallest share under the first civilian administration under Kim Young-sam with an average of less than 0.04% of GDP, because of the efforts to prevent corruption and due to the declining share of government spending to GDP. Under the two liberal administrations of Kim Dae-jung and Roh Moo-hyun, the average size of rent seeking increased to 0.06% of GDP, because government spending increased and advanced into many new fields such as support for SMEs and social welfare. In general,

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<sup>1</sup> According to Park (2008: 36) rents are the "changes in the proportion allocated to different functional budgetary categories after the effects of rational determinants, political and economic determinants and incremental determinants in each functional budget category were eliminated." A modified method developed by Katz and Rosenberg (1989) was used for estimating the size of rent in this study. Please note that this study only focused on measuring the size of rent seeking in the government budget allocation.

rent seeking is largest in the field of economic development followed by social spending, education, and the defense sector.

### **Separation private-public**

The separation between private and public has become stricter and public scrutiny of public officials and politicians has improved. Unlike in the past, the use of public accounts for private purposes by public officials or politicians is now widely seen as unethical. According to the ACRC, many illegal/unfair cases of public officials spending public funds were discovered such as frequent local/overseas business trips and trainings, frequent private use of operational expenses including payment with corporate credit cards for family or friends, frequent illegal use of clean cards (corporate credit cards for public officials) in karaoke and other bars, divided payment to hide excessive payments for entertainment, or the use of government budgets for other purposes. In addition, frequent overseas trips failing to correspond with the purpose of training or wasteful use of budget resources to increase the welfare of assembly members themselves were discovered. As a result of these investigations, KRW 30 million of illegally used funds were recovered (Anti-Corruption and Civil Rights Commission 2013).

The Code of Conduct for Public Officials was enacted in February 2003 as an ethical guideline for public officials by the ACRC. Based on this model code, public sector agencies have introduced their own codes of conduct. The ACRC monitors compliance with and investigates violations of these codes (Anti-Corruption and Civil Rights Commission 2013). Regarding corruption of high-ranking public officials, both the Criminal Act and Special laws can be applied to punish them for bribery, neglect of duty, crime against divulgence of secret in the course of performing public duties etc. According to the report from the Korea Institute of Criminology, the number of public officials punished or reprimanded due to acceptance of bribe or embezzlement of public money is larger among high-ranking public officials. Major special laws related to corruption of public officials are the State Public Officials Act and Public Service Ethics Act. The State Public Officials Act sets out obligations for public officials in reference to their public duties, such as maintaining dignity, integrity and a ban for holding more than one concurrent position for pursuing profit. The said Act also mandates the forced retirement or dismissal of public officials (Jang and Yoon 2011).

Favoring family members is also a practice more and more criticized by the public. For example in 2010, the then foreign minister Yu Myung-hwan resigned due to nepotism involving his daughter. According to a newspaper article from Asia Times, the Ministry of Foreign Affairs and Trade changed employment requirements several times in order to give

an advantage to the daughter of the then foreign minister. During the job interview, two interviewers from the Ministry gave her perfect scores and she was hired for the job. The decision was revoked after an investigation revealed the misconduct (Lee 2010). An editorial from the Chosun Ilbo pointed out that the Public Administration Ministry being in charge of all government hiring for specialized positions might cause nepotism, because these positions are excluded from the regular entrance exams that are much harder to manipulate (The Chosun Ilbo 2010).

## **Relation formal-informal institutions**

The under-institutionalization and weakness of formal institutions is often mentioned as a major problem in the governance structure of Korea. Since the beginning of the democratization process the rule of law as well as political institutions are increasingly formalized. Korea has adopted many of the “best practice” institutions for example recommended by the OECD. However, in practice, particularly in the business sector, informal institutions, hierarchies and arbitrary decisions frequently overrule formal rules. There is a strong notion particularly for the political and economic elites that it is justified to break rules for the benefit of the interest of your own family, network, company or political party. Particularistic interests still mostly trump general interest and universal values. Work contracts and contracts between companies and their suppliers seem to be particularly vulnerable to arbitrary decisions and resulting conflicts are frequent. For example, Company CEOs still tend to run businesses like a family in which the CEO is seen (or is liked to be seen) as the benevolent authoritarian father figure. In the public sector bureaucratic procedures are much more dominant and courts are increasingly effective to settle conflicts.

Tax evasion remains pervasive. A recent newspaper editorial by the Korea Herald noted that self-employed professionals and entrepreneurs underreported their income by 30% on average and evaded taxes amounting to 7 trillion won, which is equivalent to about 5 billion euro, a year in 2008 citing the Korea Institute of Public Finance. Altogether Korea’s shadow economy is estimated to be about 28% of the nation’s gross domestic product (The Korea Herald 2012). The Korea Center for Investigative Journalism (*NewsTapa*) that is cooperating with the International Consortium of Investigative Journalists (ICIJ) recently disclosed 245 Koreans who established paper companies in tax havens including the British Virgin Islands and Cook Islands from 1995 through 2009. The National Tax Service is currently conducting preliminary investigations and will levy back taxes after the investigation ends (Na 2013). In line with this, prosecutors also raided offices of the CJ Group and the life insurance unit of Hanwha. As a result, the chairman of CJ group was arrested on charges of embezzlement and tax evasion (Choe 2013).

With respect to corruption involving public officials, the strongest sanction is criminal prosecution. For corruption cases, the prosecution conducts investigation after finding criminal facts by itself. Usually, prosecutors start investigations into corruption cases when the National Tax Service, the Board of Audit and Inspection, Public Official Ethics Committee or other institutions detect suspicions of corruption. Successful investigation and indictment of corruption cases depend on the prosecution as it has the exclusive supervisory right of investigation activity and the right of arraignment. Therefore, the integrity and independence of the prosecution have great impact on the criminal trial system. The prosecution, especially the central investigation department of the Supreme Prosecutor's office, has the responsibility to be the first line of imposing criminal sanctions against corrupt public officials (Jang and Yoon 2011).

### **Accountability and rule of law**

Prosecution and imprisonment of members of the political and economic elite is frequent. With the exemption of President Park Chung-hee, who was assassinated while in office, all former Korean presidents faced investigations of corruption or embezzlement against themselves or close family members. President Roh Tae-woo and Chun Doo-hwan were sentenced to long prison terms, but were later pardoned. President Kim Young-sam and Kim Dae-Jung saw their sons imprisoned for corruption and President Roh Moo-hyun committed suicide amid a corruption investigation against his wife, son and his brother's son-in-law (the charges were dropped after his suicide). In January 2013, President Lee's brother was sentenced to two years in jail for bribery. Business chairmen and CEOs are also not immune to prosecution and get jailed frequently. However, many of these sentences are symbolic as members of the elite frequently receive presidential pardons. Ironically, due to the fact that most business leaders sooner or later face some form of prosecution, criminal convictions and even prison terms seem to carry little social stigma. It also seems likely that corruption investigations are sometimes corrupted itself and used for political purposes to discredit an opponent, for revenge or in order to extract concession. The investigations or jailing of CEOs used to be an effective way of ensuring the compliance of businesses to government policies during the military dictatorship.

The fight against corruption and protection of whistleblowers has been increasingly professionalized. The ACRC aims at establishing a quick and reliable one-stop service system by combining the functions of addressing public complaints, preventing corruption and settling administrative appeals. Roles of the ACRC include designing and governing comprehensive anti-corruption measures at the national level, assisting concerned government agencies to implement a measure to assess integrity levels of high-ranking

public officials as well as protecting and rewarding those who have reported suspected corruption. Table 2 shows the number of reports that ACRC received annually (Anti-Corruption and Civil Rights Commission 2013).

**Table 3. Number of corruption reports received by year**

Category	Total	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Reports received	24,629	2,572	1,679	1,763	1,974	1,745	2,544	1,504	2,693	3,099	2,529	2,527

Source: Anti-Corruption and Civil Rights Commission (2013)

In addition, the ACRC carries out an Integrity Assessment on public agencies every year and releases the results. It also provides integrity educations to public officials through the Internet and the Anti-Corruption Training Institute. Integrity Assessment is based on three different sources: 1) evaluation of public services by citizens, 2) surveys among public officials, and 3) opinions of selected professionals. Based on Integrity Assessment results, public agencies made efforts to prevent and eradicate corruption. As time went by, public agencies raced to improve their Integrity Assessment score and the general integrity level improved (Anti-Corruption and Civil Rights Commission 2013).

**Table 4. Number of cases referred to investigative agencies**

	Total	Referral to investigative agencies				Rate ( $\ominus/\ominus$ )
		Notification of result			Under investigation	
		Found guilty $\ominus$	Acquittal	Subtotal $\ominus$		
Year	896	581	244	825	71	70.4
2002	74	47	27	74	-	63.5
2003	100	67	33	100	-	67.0
2004	66	48	18	66	-	72.7
2005	82	53	29	82	-	64.6
2006	83	63	20	83	-	75.9
2007	92	70	22	92	-	76.1
2008	65	44	21	65	-	67.7
2009	106	73	33	106	-	68.9
2010	81	57	24	81	-	70.4
2011	73	43	13	56	17	76.8
2012	74	16	4	20	54	80.0

Source: Anti-Corruption and Civil Rights Commission (2013)

Among those 896 corruption reports that were referred to investigative agencies during the period of January 2002 to December 2012, 369 reports (47.8%) were in connection with whistleblowing cases. The detection rate of the corruption by whistleblowing is 74.3%, which is slightly higher than the 70.4% detection rate of the corruption reports in total. Upon the conclusion of all the investigations on 274 whistleblowing cases, 1,801 individuals were punished and indicted proving that whistleblowing is an effective tool for disclosing corruption in Korea (Anti-Corruption and Civil Rights Commission 2013).

### **Personal autonomy and collective action capacity**

Public opinion surveys conducted in 1996 and 2003 show that Koreans are increasingly intolerant of corruption. As Table 1 indicates an increasing number of Koreans are strongly or somewhat opposed to paying bribes. Citizens also more and more speak out against corruption and report corrupt public officials to the ACRC, and this reflects improved interactions between citizens and government administration.

**Table 5. Public opinion about the acceptability of bribery**

<Survey year>	To a traffic policeman		To a teacher		To a public official	
	1996	2003	1996	2003	1996	2003
Strongly oppose	36.2	61.9	55.9	66.8	44.6	71.0
Somewhat oppose	23.8	17.3	19.7	14.8	27.3	15.4
Uncertain	26.1	17.6	15.4	14.8	20.5	9.9
Somewhat acceptable	11.9	3.0	7.9	3.1	6.1	3.3
Very acceptable	1.8	0.3	0.8	0.6	0.8	0.3

Sources: Lim (1996) and Park (2003), cited in You (2005)

Since the beginning of democratization, the Korean civil society is very active in the struggle against corruption. In 1991, civil society organizations launched a “campaign for fair and clean elections” that contributed considerably to monitor politicians and increase public awareness. In 2000, civil society organizations released a list of corrupt politicians and launched negative campaigns to defeat them. 70 percent of those candidates on the black list of CSOs were defeated in the National Assembly elections of April 2000 (You 2001, 2005). Other activities include the PSPD initiative for more transparent corporate governance and the NewsTapa publications of Koreans with offshore bank accounts.

Some businessman and politicians have tried to change the Korean corporate and political culture. The previous presidential candidate Ahn was already mentioned above. Former President Roh Moo-hyun (2003-2007) also succeeded to obtain the party’s nomination and

the Presidency with support from grass root movements and relatively small campaign funds. He largely relied on donations through the internet and grassroots mobilization for his campaign fund for the presidential election, and defeated the conservative candidate, Lee Hoi-chang, who was later found to have received illegal contributions of KRW 34 billion (PSPD report cited in You 2005). Although Roh's campaign was not perfectly free from illegal funds he has shown that it is possible in the Korean political system to win an election without the big money by organizing support from the grass root level.

## **VI. Conclusions**

The status of governance in Korea has improved substantially since the beginning of democratization in 1987, but is still suffering from the legacy of the authoritarian past. Korea has a very capable public sector and the meritocratic bureaucracy is well trained and well paid. On the other hand, personal networks remain strong and often have the tendency to undermine a more universalistic approach working for the general society and the common good. Amid a lack of trust in institutions, networks of personal trust tend to further undermine an effective institution building process. Close personal networks between business, bureaucracy and politics are particularly problematic and facilitate a climate of collusion and corruption. The strong hierarchy and paternalistic systems in public and business organizations undermine attempts for more transparency. Government institutions combatting corruption exist and started to make some impact in educating employees, investigating complaints and protecting whistleblowers. Many, however, question the independence of the anti-corruption agency ACRC that largely depends on the support by the president. The ACRC lacks the authority to extend investigations and to ensure compliance in the private sector. On a positive note, Korean civil society is vibrant and the internet is a powerful tool to improve transparency despite attempts of the government to limit freedom and anonymity on the web. The democratic systems of checks and balances are largely intact and the judiciary is becoming more professional and independent from political meddling. The biggest challenge for a more transparent society and a better governance system remains the large concentration of economic power in the hands of a couple of (mostly family controlled) business conglomerates. As long as economic power remains highly concentrated, business leaders will always be tempted to avoid fair competition and use their economic resources to extract favors or protection from the state.

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## Project profile

ANTICORRP is a large-scale research project funded by the European Commission's Seventh Framework Programme. The full name of the project is "Anti-corruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption". The project started in March 2012 and will last for five years. The research is conducted by 21 research groups in sixteen countries.

The fundamental purpose of ANTICORRP is to investigate and explain the factors that promote or hinder the development of effective anti-corruption policies and impartial government institutions. A central issue is how policy responses can be tailored to deal effectively with various forms of corruption. Through this approach ANTICORRP seeks to advance the knowledge on how corruption can be curbed in Europe and elsewhere. Special emphasis is laid on the agency of different state and non-state actors to contribute to building good governance.

Project acronym: ANTICORRP

Project full title: Anti-corruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption

Project duration: March 2012 – February 2017

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