

The International Anticorruption Trends:Its Prevention and Control.*

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ABSTRACT

The contents of the article include "Anti-Corruption Trends in International Society", "Anti-Corruption Systems and Efforts in Asian Countries", and Efforts to Prevent Corruption in Korea. It is very meaningful to analyze that the study of the comparative analysis in terms of anti-corruption systems in global community including United Nations, OECD, United States, Hong Kong, Singapore, and Malaysia will contribute to provide measures and methods for preventing corruption in Korea. Considering the measures to prevent corruption such as the ICAC in Hong Kong, the CPIB in Singapore and the ACA in Malaysia, the study of foreign countries in terms of anti-corruption systems will be instructive to provide and strengthen anti-corruption system in Korea. The current system for corruption control is due to "a lack of effectiveness and efficiency" in Korea. Central organization for establishing anti-corruption programs, which "integrate and coordinate the activities of various anti-corruption organizations", will be required in Korea.

Key words : Corruption trends, Prevention, Control

* 이 논문은 2002년도 한국학술진흥재단의 지원에 의해 연구되었음

** The Academy of Korean Studies

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I. INTRODUCTION

1. Background

The present administration committed itself to serve people faithfully in the name of the government of people. The commitment was considered as its pride since it brought the first turn-over of political power from the past, which was lacking in legitimacy. It was also the will of reform of old misdeed. A democratic country normally has obligations for pursuing justice and devotes itself to the public interest. The obligations consist of laws and systems, namely institutions, which are implemented and controlled by the administrative parts. If the government stays blind to the duties of the officials and the corruption of a few elites, however, the mistrust and confusion in a society will never disappear. Now, Corruption is not just a fact of life, it is but also a worldwide phenomenon. In recent years, it has reached unprecedented levels. As recent events have demonstrated, no matter how rich or powerful, no country can claim to be totally immune from the ravages that corruption wreaks. As a matter of fact, corruption is an obstacle to development and social stability all over the world. So many countries are trying to combat corruption which emphasize collaboration, cooperation, and information. As a matter of fact, corruption is an invisible factor that indicates their parts of competitive power on corruption index rank. The problem of corruption was a domestic issue in the past. Therefore, a lot of countries in the world tried to solve the problem

of corruption. International pressures on corruption hamper freedom or threaten international competitiveness are considerable. Moreover, corruption often transcends the national level. Accordingly, combating corruption is often beyond the reach of national governments alone. Working closely with a growing number of international organizations now starting to address the issue, let us play a catalytic role in defining and implementing the international agenda against corruption.

For example, corruption in Korea is a incurable bad tradition, without which social success would be almost impossible. What is called 'a culture of corruption' dominates the everyday lives and the minds of the public. That is why in order to combat corruption we need to reform consciousness as well as rejuvenate institutions. Successful models of anti-corruption should be considered too. Corruption in Korea even acted as a foundation for the public servants and lubricant for economic development. Korean officials have remained complacent in the culture of corruption under the regimes lacking in legitimacy for a long time. Unless we reduce corruption from our global society, even the basic frameworks of our nation may be threatened, let alone strengthening of our competitiveness. Most importantly, a long term method and suitable plan should be implemented.

In this paper, I focus on how to combat corruption and institutionalize global trends and analyze methods of regional and transnational collaboration. I also attempt to cast light on corruption from many different viewpoints. Focusing on the whole world, it mainly deals with anti-corruption infrastructures and preventive systems. The author visited and conducted interviews with personnel from the UN, OECD, OAS, U.S. Office of Government Ethics in the USA (OGE), Independent Commission Against Corruption (ICAC) in Hong Kong, and the Corrupt Practices Investigation Bureau (CPIB) in Singapore. The legislative contents and research data were analyzed. Key points the author emphasizes are as follows:

First, to introduce the cases of the UN and OECD that were noted for their successful stories of combating corruption;

Second, to analyze each role of OGE in USA, ICAC in Hong Kong, and CPIB in Singapore and to scrutinize their problems;

Third, to understand the current administrative situation of Korean corruption

and to suggest possible countermeasures, focusing on the Board of Audit and Inspection of Korea and the Criminal Prosecution System in Korea. This research approaches the anti-corruption systems in Korea generally and provides a theoretical foundation for eliminating corruption in Korean society and for recovering the public trust.

Korean corruption originated and worsened in the unique conditions of Korean bureaucratic administration. If we address the issue of corruption in Korea with such characteristics in mind, the anti-corruption policies will be of more relevance to the local situation. Research on anti-corruption here in Korea has been rather superficial and abstract thus far. There was no accurate understanding of structures and causes of corruption, which is why the resulting policy lacked the feasibility. Thus, the anti-corruption measures in Korea should be performed in a systematic perspective with a comprehensive grasp of how the corruption emerges and develops. It must penetrate and halt the continuous life cycle of the corruption. Only when the anti-corruption policies are implemented in this a way can the administrative system be effective and transparent.

2. Varieties of definition

1) Corruption

Over the past thirty years, official corruption has frequently been a topic of public concern. Corruption such as president corruption, bribery of power elite group, and their state and local counterparts have led to prosecutions and the ouster of elected officials, and legislatures have often responded by creating or strengthening official misconduct and campaign finance statutes.

As John G. Peters and Susan Welch indicated, corruption scholars have defined their subject matter in different ways.

Joseph S. Nye (1967) defines official corruption as "behavior which deviates from the formal duties of a public role because of private regard for personal, close family-private clique, pecuniary or status gains or violates rules against the exercise of certain types of private-regarding influence" example of behavior violating "formal duties" include bribery (use of compensation to pervert the

judgement of a person in apposition of trust); nepotism (bestowal of patronage position by reason of ascriptive relationships rather than merit); misappropriation (illegal allocation of public resources for private uses); and willful failure to enforce laws or invoke sanctions that are appropriate to a situation.

This definition assumes that behavior is corrupt only when it violates a formal standard or rule, which can happen only if legislators have labeled it corrupt (H. G. EDERICSON, 1993).

Arnold Heidenheimer (1970) notes that corruption can be "black" "white" or "gray".

Black corruption involves actions that are judged by both the public and public officials as particularly abhorrent and therefore requiring punishment.

White corruption might be political acts deemed corrupt by both the public and officials, but not severe enough to warrant sanction.

Gray corruption involves those actions found to be corrupt by either one of the groups, but not both.

2) The characteristic of corruption

The characteristics of corruption is that corruption always involves more than one person. This need not be the case with stealing, for instance, or embezzlement. The lone operator in corruption is virtually non-existent, and such cases usually fall under fraud. One instance is making a false declaration of traveling expenditure or hotel bills. But even here there is often a silent understanding between officials who practise such fraud to let the situation prevail. (S H Alatas, 1999)¹⁾

Corruption on the whole involves secrecy, except here it has become so rampant and so deeply rooted that some powerful individuals or those under

1) It is noted that to mitigate corruption, even if they do not effect an abolition: a) A positive attachment to the government and a spiritual involvement in the task of national progress from both the public and the bureaucracy b) efficient administration and the proper structural adjustment of government machinery and regulation so as to avoid the creation of sources for corruption c) favourable historical and sociological conditions. d) the functioning of an anticorruption value system and high moral and intellectual standards. On this, See Alatas Syed Hussein (1999), *Corruption and the Destiny of Asia*, Kuala Lumpur, Prentice Hall: 33

their protection would not bother to hide their activity. But nevertheless, even here the corruption motive is kept secret. Corruption involves an element of mutual obligation and mutual benefit. The obligation or benefit need not always be pecuniary. Those who practise corrupt methods usually attempt to camouflage their activities by resorting to some form of lawful justification. They avoid any open clash with the law. Those who are involved in corruption are those who want definite decisions and those who are able to influence those decisions. Any act of corruption involves deception, usually of the public body society at large. Any form of corruption is a betrayal of trust. Any form of corruption involves a contradictory dual function of those who are committing the act. When an official is bribed to issue a business licence by the party who offers a 'gift', the act of issuing the licence is a function of both his office and his self-interest. He acts in a dual contradictory function. A corrupt act violates the norms of duty and responsibility within the civic order. (A.A. ROGOW and H.D. Lasswell, 1963)

II. TRENDS OF ANTI-CORRUPTION IN INTERNATIONAL SOCIETY

As for the theories on corruption, there was a functionalist perspective in the 1960's, which regarded the corruption as inevitable outcome of economic and social development. In the eyes of a functionalist, the corruption is a necessary evil. In the meantime, a post-functionalist in the 1970's saw it as universal all over the countries in the world. Especially since the 1980's there has been an integrative theory which combines these two perspectives. It argued the corruption is more likely to happen in the underdeveloped countries.²⁾

In the 1990's, with the breakdown of the Socialist states such as the Soviet Union and Eastern European countries, the corruption was interpreted as a cause for their collapse. Also many people are of the opinion that Asia's financial crisis of 1997 was attributable to the structural weakness of the

2) 2 Kim, Y. Jong, 1996, Koran Public Administration. Corruption Studies. Seoul: Hak Mun Publishing INC.

economy as well as widespread corruption. As the corruption emerged as a nationwide obstacle in many countries they sought for new preventive systems for anti-corruption.

Recently, the role of international society as a catalyst for fighting corruption and mobilizing pressure on countries to adopt policy making and agenda cannot be underestimated.

1. United Nations

In 1974, the Economic and Social Council of the UN established an intergovernmental subsidiary body, the Commission on Transnational Corporations (CTC), with the objective of furthering a better understanding of the nature transnational corporations and their political, legal, and economic effects on host and home countries. The aim of the CTC was to prepare for adoption by the UN a Code of Conduct on Transnational Corporations, which would offer credible assurances to both host countries and home countries in the treatment of various issues, such as tax and foreign required in international transactions.-the problem of corrupt practices.³⁾

This exercise was to be carried out by the Ad Hoc Intergovernmental Working Group on the problem of Corrupt Practices, established in August 1976, and ECOSOC, AFTER General 15, 1075. Its outcome was due to be reflected in an article in the proposed code of conduct. This resolution expressed concern over corrupt practices in the activities of certain transnational corporations and requested ECOSOC to include this in the work of the CTC. The Ad Hoc Intergovernmental Working Group worked with the CTC to produce several drafts on the issue of bribery and corruption and, in Particular, a draft of an international agreement on illegal payments.⁴⁾ The Ad Hoc Working Group was replaced by the Committee on an International Agreement on Illicit Payments, which was established by ECOSOC on August

3) W.Patti Ofori Amaah, 1999, Combating Corruption, International Bank for Reconstruction and Development.

4) See, generally U. N.,1978, Document E/1978/115

4,1978.⁵⁾ The ECOSOC is currently targeting the abuse of offshore resort for purposes including the preparation and after treatment of bribery.⁶⁾ The General Assembly has recently taken note of a study by the United Nations office for Drug Control and Crime Prevention on financial on havens.⁷⁾

The UN confirmed interest in the subject of corruption over the last two decades (after the earlier discussion on illicit payments) culminated on December 16, 1996, with the adoption by the General Assembly of a Declaration against Corruption Bribery.⁸⁾

As part of this resolution, the General Assembly also adopted an International Code of Conduct for Public Officials. It broadly defines bribery to include all actions deemed to be included in the laws on bribery and corruption in many states.⁹⁾ It these practices, including the development or maintenance of accounting standards and practices, as well as appropriate business codes and best practices.

According to the U.N. declaration,¹⁰⁾ bribery includes the offer, promise, or giving of any payment, gift, or other advantage, directly or indirectly, by any private or public corporation, including, transnational corporation, or individual from a state to any public official or elected representative of another country as undue consideration for performing or refraining from The Performance of that officials or representative's duties in connection with an international commercial transaction

5) See,for details, Economic and Social COUNCIL resolution ,1978/71 United Nations Economic and Social Council OFFICIAL records Article 10

6) Mark Pieth, 1999 International Efforts to Combat Corruption, Responding to the Challenges of Corruption, p28, United Nations

7) See, for details, UNDCP,1998, Financial Havens, Banking Secrecy and Money Laundering, Bloom, New York

8) U.N.,1996, December16, "Declaration Against Corruption and Bribery in International Commercial Transaction" 36 ILM 1043(1997)

9) W. Patti Ofosu Amaash, 1999, Combating Corruption p71

10) See,W. Patii Ofosu-Amaash, 1998, Combating Corruption

Recently, UN is going to push to combat corruption for high competitiveness. Last year, UN Assembly made an effective legal policy on fight against corruption in the world. And trying to discuss talk over international agreements on anti corruption. UN ex-Secretary- General Kofi Annan told that it is necessary to cooperation standard for the exchange of information, investigation, chasing bribery property. Then, international organization is responsible to these solutions. UN has been help to combat corruption especially, misconduct, misbehavior and confiscated property from bribery. Last 5years ago, UN assembly searched for punishment that it is based on international law on corruption issue and formalized agreement of anti corruption.

2. OECD

Since 1989 the OECD has played a leading role in the battle against international bribery and corruption. The fight gathered momentum in 1999 with the entry into force of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.¹¹⁾ In May of 1994 the Organization for Economic Cooperation and Development (OECD) adopted the recommendation of the Council on Bribery in International Business Transactions. Convinced that bribery in international business transactions has many harmful repercussions and that an effective worldwide policy is best suited to fight against corruption, the OECD member countries have developed different instruments to strengthen integrity and transparency in business operations such as the 1997 Revised Recommendation on Combating Bribery in International Business Transactions. The Convention and its related instruments also recognize the key role of governments in preventing solicitation of bribes and encouraging ethical conduct among public officials. The 1998 Recommendation on Improving Ethical Conduct in the Public Service provides a set of management principles for governments to check their national institutional circumstances. In May of 1996, the Recommendation on Tax Deductibility of Bribes to Foreign Officials, and the Recommendation to Combat Corruption in

11) See, OECD, 2000, OBSERVER

Aid-Funded Procurement were adopted as to make it possible to define bribery as a crime.¹²⁾ In 1997, as major world economies agreed that the corruption also profoundly affects the international economic order, the 1997 Convention on Combating Bribery of Foreign Public Officials in International Business Transactions entered into force in 1999. This stipulates that even individual expression of willingness to commit bribery is a crime and that punishment fine is as twice as the bribery. In 1995 the US-led Ethics Round specified that the corporations who do not practice in accordance with corporate ethics are given punishment in international transactions. It is running the Best Global Practice Program which teaches for improving corporate citizenship.

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions was adopted in December 1977. The convention obliges parties to adopt wide-ranging rules.¹³⁾

- National legislation should make bribery of foreign public officials a crime.
- "Bribery" and "foreign public officials" should be defined broadly to take account of the fact that functions exercised by the State vary from country to country.
- Penalties must be "effective, proportionate, and dissuasive," comparable to penalties applicable to domestic public officials(including prison terms).
- Territorial jurisdiction should be interpreted broadly and national jurisdiction established if this accords with national legal principles.
- Where there is no criminal liability of companies, countries should impose dissuasive noncriminal sanctions, including monetary fines.
- Accounting and auditing standards are required to prohibit the establishment of off-the-book accounts and other techniques for hiding bribery
- Mutual legal assistance must be provided in connection with criminal investigations and other proceedings.
- "Bank secrecy" may not be asserted to deny mutual legal assistance.
- Extradiction should be provided for

12) Rooke Peter(1996), Global Anti Corruption:The Role for Civil Society.PSPD.2-26

13) Asian Development Bank.1999, Combating Corruption in Asian and Pacific Economies

The 1997 Recommendation also incorporates the 1996 Recommendation on Anticorruption Proposals for Bilateral Aid Procurement, according to which signatory countries of the convention should do following:

- Require anticorruption provisions in bilateral funded procurement.
- Promote the proper implementation of anticorruption provisions in international development institutions.
- work closely with development partners to combat corruption in all development cooperation efforts.

3. Organization of American States

At the 1994 Miami summit of the Americas, the 34 leaders of the western hemisphere called for negotiating of a hemispheric convention against corruption.¹⁴⁾ Furthermore, it commits nations to reforming their criminal codes to bring domestic law into compliance with the convention. The OAS is also exploring ways to develop a viable monitoring and review mechanism relating to the Inter American Convention¹⁵⁾

One of the landmark expressions of concern and possible action on the issue of corruption was taken by member nations of the OAS in 1996. The Inter-American Convention against corruption was signed by 21 Latin American Countries in March 1996 . The United States and Canada signed later the same year.¹⁶⁾

The main objectives of the convention are to promote the development and strengthening of the legal mechanisms in signatory countries to "prevent, detect, punish and eradicate official corruption in both the domestic and international spheres. The convention requires a good deal of cross-border cooperation and calls for strengthening national law. It demands that countries prohibit and punish Transnational bribery subject to their own constitutions and legal system, Under the convention states agree to deny favourable tax

14) U.S. Department of states.2000, Fighting Global Corruption: Business Risk Management p14

15) U.S. Department of States.2000, Ibid, p13

16) OAS.1996, march 29, "Inter American Convention Against Corruption" 35 ILLM 724(1996),caracas

treatment for expenditures that violate the anticorruption laws of member states subject to domestic law, signatories may take people into custody whose extradition is sought by another state. The convention is distinctive in including both countries, a number of middle-range countries and several countries in a single region.¹⁷⁾

4. United States

FCPA(Foreign Corrupt Practices Act)

The battle against international bribery and other forms of public corruption remains a high priority for the United States. Bribery of foreign public officials by business is a extremely damaging type of corruption. Corporate bribery also creates severe foreign policy problems for the United States. The revelation of improper payments invariably tends to embarrass friendly governments, lower the esteem for the United States among the citizens of foreign nations, and lend credence to the suspicions sown by foreign opponents of the United States that American enterprises exert a corrupting influence on the political processes of their nations.¹⁸⁾ For example, in 1976, the Lockheed scandal shock the Government of Japan to its political foundation and gave opponents of close ties between the United States and Japan an effective weapon with which to drive a wedge between the two nations. In another instance, Prince Bernhard of the Netherlands was forced to resign from his official position as a result of an inquiry into allegations that he received \$1 million in pay-offs from Lockheed. Finally, a strong anti bribery statute would actually help U.S. corporations resist corrupt demands. U.S. companies and workers can compete with the best in the global marketplace because of their drive, innovation, and quality produce and services. However, their success depends heavily on their

17) U.N.D.P..1997, Corruption and Good Governance

18) For example, in 1976, the Lockheed scandal shock the Government of Japan to its political foundation and gave opponents of close ties between the United States and Japan an effective weapon with which to drive a wedge between the two nations. In another instance, Prince Bernhardt of the Netherlands was forced to resign from his official position as a result of an inquiry into allegations that he received \$1 million in pay-offs from Lockheed

ability to compete on a level playing field. Bribery and corruption tilt the playing field and create unfair advantages for those willing to engage in unethical or illegal behavior. Corrupt practices penalize companies that play fair and seek to win contracts through the quality and price of their products and services. In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), effectively outlawing offers, promises, and payments by U.S. firms to foreign officials, political parties, party officials and candidates to secure business advantage. Since then, the United States has been trying to level the playing field by encouraging other industrialized countries to take similar steps— and these efforts are finally paying off. There has been real progress in building an International coalition to fight bribery and public corruption so that all business may fairly compete in the global market place.¹⁹⁾

The FCPA was intended to have and has an enormous impact on the way American firms do business. Several firms that paid bribes to foreign officials have been the subject of criminal and civil enforcement actions resulting in large fines and suspension and debarment from federal procurement contracting, and their employees and officers have gone to jail. To avoid such consequences, many firms have implemented detailed compliance programs intended to prevent and to detect any improper payments by employees and agents.

Following the passage of the FCPA, the Congress became concerned that American companies were operating at a disadvantage compared to foreign companies who routinely paid bribes as business expenses on their taxes. Accordingly, in 1988, the Congress directed the Executive Branch to commence negotiations in the OECD to obtain the agreement of the United States' major trading partners to enact legislation similar to the FCPA. In 1997, U.S. and thirty-three other countries signed the OECD Convention on Combating Bribery of Foreign Public Officers International Business Transactions. The U.S. ratified this Convention and enacted implementing legislation in 1998. Then, US

Government support OECD that should be pushed to the regulation of anti corruption.

19) U.S. Department of States, 2000, *Fighting Global Corruption: Business Risk Management*, see, Transparency International. Working paper

OGE (US Office of Government Ethics)

First of all, US Federal Government efforts for curbing corruption examine as follows: The U.S. office of Government Ethics provides overall policy leadership for executive branch department and agencies in the conduct of their ethics programs. Each department or agency head is responsible for the ethics program in that department or agency and is further required to appoint a Designated Agency Ethics Official, or DAEO, to manage the department or agency ethics program. By interpreting standards of conduct regulations, reviewing financial disclosure statements, and offering continuing ethics training and counseling services, DAEOs and their supporting ethics official ensure that executive branch employees avoid situations that could violate ethics laws and undermine the public's trust in Government.²⁰⁾ The OGE was established by the Ethics in Government Act of 1978.²¹⁾ Originally part of the Office of Personnel Management, OGE became a separate agency on October 1, 1989, through the enactment of the Office of Government Ethics Reauthorization Act of 1988. OGE carries out its leadership role through six major areas.:

The OGE is responsible for reviewing executive branch ethics programs to assess whether these programs, including financial disclosure systems, training programs, and counseling service components are administered in accordance with the ethics laws and regulations. The OGE evaluates the effectiveness of conflict of interest laws, other related statutes, standards of conduct, and Executive orders and recommends appropriate amendments when necessary.

On, July 25, 2000 the U.S. House of Representatives passed unanimously a bill designed to encourage developing nations to fight corruption at all levels of government and in the private sector by linking U.S. development assistance to a countries' efforts to root out graft, bribery and other unethical practices.²²⁾ The Bill, known as the International Anti-Corruption and Good Governance Act

20) U.S.OGE <http://www.oge.org>

21) Interview with Amy L. Comstock, Director of U.S. Office of Government Ethics, 20, May, 2001

22) see AAA project, 2000

of 2000, requires the United States Agency for International Development (USAID) to establish programs to combat corruption in those countries that receive substantial U.S. aid that have persisted problems with corruption²³⁾

5. GLOBAL NGOs Efforts

New millennium is the age of NGOs and the civil society will be growing much more. In the global civil society, the NGOs are now playing tremendously important roles and reaching all over the global village. In particular, the issue of corruption is now treated in the international level as well as in the domestic level and can have a critical effect on the international economic relations. Enormous corruption in international community cannot be overcome only by the institutional approach or one-time punishment, and therefore, the new roles of civil organizations and NGOs are seriously needed.

The World Bank did tackle the traditional corrupt practices of corporations by recommending all the IMF-loaned countries that their corporations should make transparent financial statements, respond to a lawsuit by shareholder groups, stop financial affairs among firms under one group, introduce a system of the audit board and so on. Transparency International (TI) is also one of the most remarkable anti-corruption organizations these days. It was established in 1993 and only for 3 years has gained more than 50 member countries. TI, a Berlin-based international anti-corruption organization, releases its annual Corruption Perception Index (CPI), which suggests passing anti-corruption legislation and the government keeps stressing the need for across-the-board reform measures.

23) The OGE develops, review, and issues rules and regulations pertaining to conflict of interest statutes, post-employment restrictions, standards of conduct, and public and confidential financial disclosure systems in the executive branch. The OGE reviews executive branch public financial disclosure reports of certain White House officials and Presidential appointees requiring Senate confirmation to determine if any entities on the forms may give rise to possible or actual violations of applicable laws or regulations and to recommend any appropriate corrective action. The OGE provides information on, and promotes understanding of, ethics laws and regulations primarily by developing training materials, offering instructional workshops, and assisting departments and agencies with their internal ethics education programs.

THE TI Corruption Perceptions Index has become the best known and most widely cited index of corruption. The CPI has been published annually since 1995 and has been reported on in hundreds of newspapers articles in scores of countries, on all continents. It is among the most widely used socio-economic indicators published by any independent NGO and is used by governments and international organizations as well as the media and pressure groups. The BPI measures the levels of the perceptions of bribery in leading exporting countries in 14 emerging markets. It has proven to be a valuable tool in building support for effective enforcement of the new national laws implementing the OECD anti-bribery convention. Over the next few years, TI plans to focus on using empirical data to support and monitor anticorruption efforts. Extending the coverage of the CPI and a new edition of the BPI will be part of this focus. At the moment, there is no international indicator providing credible insight into changing levels of corruption.²⁴⁾

III. ANTI-CORRUPTION SYSTEMS AND EFFORTS in the Asian Countries

Anti-corruption efforts in Korea, Asia countries are noted for their strict punishment and legal enforcement against corruption. They already have appropriate laws and apply them. Currently Korea has the Law on the Public Servants, the Public Servants in Provinces, and the Public Servants' Ethics. But they are not effectively enforced. In this paper, strong laws and systems of anti-corruption in Korea, Hong Kong and Singapore are examined.

1. Anti-corruption Systems in Asia

1) Hong Kong

24) The TI Gallup International Bribe Payers Index, released for the first time at the end of 1999, highlighted the propensity of leading exporters to pay bribes when doing business abroad. See, Transparency International. 2000, Annual Report <http://www.transparency.org>

(1) Background

Before the mid 1970's Hong Kong was all spotted with corruption. At that time people in Hong Kong had some phrases reflecting social corruption. To get on the bus means to actively get involved in corruption. To run with the bus means to just remain indifferent to the corruption. Also to stand in front of the bus means to make known or resist the corruption. The first two were practically choices for people, but the last one was considered impractical. (Manion, 1996)

In 1948, Hong Kong set the Law on the Prevention of Corruption Ordinance, which strictly punishes the congressmen, businessmen, and the government officials who commit corruption. Imprisonment up to five years and the fine up to \$10,000 were possible. There was a special body called Anti-Corruption Branch established under the Police Department, but it was too inefficient. So they formed the Standing Committee on Corruption in 1957 and came to include the executive and the legislative personnel in 1960. In 1971, the Law on the Prevention of Bribering Ordinance was set up, which said that if a public servant possesses or maintains inappropriate wealth, it falls into a crime of corruption. If he or she hides his or her belongings, it is a crime too. A delegation from the United Kingdom, Marry Maclehorse, in order to eradicate corruption, provided for the Basic Law on Independent Commission Against Corruption Ordinance in February of 1974, which gave birth to Independent Commission Against Corruption (ICAC). At first it was criticised because it is not in harmony with Chinese customs and tradition.²⁵⁾

(2) Organization and Activities

The Commission has three Departments of Operations, Corruption Prevention and Community Relations. The ICAC is also given following specific legal

25) Today, Hong Kong is known worldwide for having a clean civil service and providing a level playing field in business. Hong Kong's success in substantially reducing corruption has been hard earned by a close partnership between the community and the ICAC. ICAC has the powers of investigation, arrest, detention and granting bail, which are fundamental to any law enforcement agency. It contributes to keeping Hong Kong fair, just, stable and prosperous also by educating the public against the evils of corruption and television and radio commercials as well as print advertisements to publicise the work of the ICACsee ICAC ANNUAL REPORT 2000

powers to bring the corrupt to book under the law of Independent Commission Against Corruption Ordinance.

First, the ICAC has the powers of arrest, detention and granting bail for misuse of office as well as crimes facilitated by or connected with suspected corruption offences.

Second, the Commissioner or the Vice Commissioner has the power of issuing a warrant for arrest of corruption-related crimes regardless of public or private.

Third, the Commissioner or the Vice Commissioner has the powers of investigation to unravel and identify the transactions and assets concealed in different guises by the corrupt. The powers include:

searching bank accounts;

holding and examining business and private documents; and requiring the suspects to provide details of their assets, income and expenditure.

Fourth, the Commissioner or the Vice Commissioner makes every ICAC officer vow not to receive any bribery from anyone.

Operations Department receives, considers and investigates alleged corruption offences. Community Relations Department educates the public against the evils of corruption and enlists public support in combating corruption. Corruption Prevention Department examines practices and procedures of government departments and public bodies to reduce corruption opportunities and offers corruption prevention advice to private organizations upon request. The Commissioner is directly answerable to the Chief Executive, so the independence of the Commission is assured. The chief of each department can limit the power of his subordinate if his behavior is suspected, such as prohibit disposing his belongings or request the financial disclosure statement. Also the ICAC officers can arrest and detain each other without a warrant. They are not affected by personnel administration and usually get higher salaries than other governmental officials.

(3) Ethics Code of Public Servants

According to the Law on Bribery Prohibition and the Chief Executive's Command on Receiving an Entertainment, the public servants of Hong Kong must follow ethics code as follows.

First, in Hong Kong, the public servants may not receive cash, securities, gifts and entertainment without permission from the Chief Executive. If the gifts are no more than ordinary for other people and are not directly related with the job, they are acceptable. Second, a public servant's loan from a friend cannot be more than HK\$2,000, and it must be paid back before 14 days. Third, in case a public servant receives a gift not in accordance with the code of conduct, he or she must obtain a prior approval from his or her chief. If the public servant fails to obtain a prior approval, he or she must obtain an ex post facto approval. Fourth, a chief should order his or her subordinate officials to return honorarium which is not approved. If it is impossible to return it, the chief should dispose of it. Fifth, any public servant who is in violation of the Chief Executive's Codes on Ethics is imposed with the fine of HK\$100,000 or 1 year's imprisonment.

2) Singapore

Asian countries in a Confucian culture, with no exception, are challenged with the problem of corruption in high class, although they enjoy economic development. It was only Singapore that has kept its government free from corruption since independence in 1965. It maintains the annual growth rate of 9% and national income per capita of \$32,000.

As far as the politics is concerned, the ruling People's Action Party (PAP) of the incumbent Prime Minister Goh Chok Tong and Senior Minister Lee Kuan Yew is grasping political power for 40 years. Unlike the saying 'absolute power corrupts absolutely', the PAP is cited as a recommendable example of transparent politics. There is not even a term 'political fund'. Minimizing the election campaign fund, the headquarters of PAP is funded by its members' dues, and each district party chapter funded by subsidiary business such as kindergartens and bazaars.

For higher officials a strict code of ethics is applied. Tan Kia Khan, ex-prime minister, Mr. Lee's righthand man, was punished for a scandal of commissions with the Boeing Company in 1965. He was a minister of national development at that time. Also in 1976 Wi Tun Buhn, a secretary of state and alumni of Mr. Lee, was sent to the prison for corruption.

Singapore demands the administrative officials to strengthen self-control or self-inspection for the purpose of eradicating the causes of corruption. By providing high salaries, rewards and excellent working conditions for the public officials, Singapore makes them more devoted to their work and prevent the possible corruption. (Quah, 1995, 1999)

Anti-corruption efforts of the top leadership such as Prime Minister Goh Chok Tong and Senior Minister Lee Kuan Yew plays a very important role too. Mr. Lee publicly announced that he has no individual possessions and the opposition parties were never able to blame him for such matters. Western press did not ever criticise his integrity, although it mentioned his dictatorship. The Prevention of Corruption Act, formulated in 1937, was revised in 1960 to have more binding powers. The main point was to grant a stronger power to the director of the Corrupt Practices Investigation Bureau (CPIB). The director is appointed by the Prime Minister, and can arrest the corruption-related suspects without a warrant. Criminal of corruption is sentenced imprisonment up to 7 years with fines.

(1) Background

Established in 1952, the Corrupt Practices Investigation Bureau (CPIB) is an independent body which investigates and aims to prevent corruption in the public and private sectors in Singapore. From the 1940's to the 1950's corruption and violation were so widespread in Singapore. Those days all the crimes about corruption were handled by the Anti-Corruption Branch known as Singaporean police. The Branch, however, did not give satisfactory results in a part because the policemen themselves were stained with corruption. That is why there emerged a strong need for an organization independent from the police to investigate corruption. In the early days, the CPIB had a difficulty in collecting proofs of individual corruption because the relevant laws were not efficient. Another problem was a lack of cooperation from the public sector. Most of the public officials were doubtful and even scared of the CPIB's activities. Since the People's Action Party took power in 1959 this situation began to change. The punishment against the corrupt officials became harsher and they got purged from public life. The CPIB restored the public officials's confidence as the government implemented the anti-corruption policies faithfully.

(2) Legislation

In 1960, the government of Singapore established more effective law towards corruption – the Prevention of Corruption Act. The CPIB derived its powers of investigation from the Chapter 241 of the Prevention of Corruption Act. A new law, Corruption (Confiscation of Benefits) Act, was passed in 1989. This law empowers the court to confiscate and freeze all the properties gained through corruption.

(3) Organization and Activities

Elimination of corruption in Singapore was possible because of the severe institutional mechanism. The Prevention of Corruption Act established in 1960 strongly precludes corruption of politicians and public officials. The CPIB is headed by a director who is directly responsible to the Prime Minister. The bureau consists of 49 officials, among whom there are one director, two deputy directors, five assistant directors and 41 special investigators. There are two divisions in the bureau, one is the operation division and the other specialist support division. Each of the division is responsible to the deputy directors. Main activities of the CPIB are as follows. First, the bureau is responsible for safeguarding the integrity of the public service and encouraging corruption-free transactions in the private sector. Second, it is also charged with the responsibility of checking on malpractices by public officers and reporting such cases to the appropriate government departments and public bodies for disciplinary action. Third, besides bringing corruption offenders to book, the bureau carries out corruption prevention by reviewing the work methods and procedures of corruption-prone departments and public bodies to identify administrative weaknesses in the existing systems which could facilitate corruption and malpractices, and recommends remedial and prevention measures to the heads of departments concerned. Although the primary function of the bureau is to investigate corruption under the Prevention of Corruption Act, it is empowered to investigate any other seizable offence under any written law which is disclosed in the course of a corruption investigation. With enough suspicion the bureau can arrest the suspect without a warrant.

3) Malaysia

(1) Anti-Corruption Law

This law, established in 1997, contains a lot of contents for anti-corruption. Especially the system of a director-general is notable. The director-general has responsibility for the following things. First, under this law, he receives reports and inquires them. Second, under this law, he investigates any suspicious acts. Third, under this law, to help disclose any crimes he inquires the practices, systems, and procedures on the part of the public sector and undertakes to correct them. Fourth, to prevent any more corruption, he guides and instructs the corruption-related criminals. Fifth, he gives advice to the chiefs in the public sector to assist them in bringing changes to the practices and systems for minimizing the possibilities of corruption. Sixth, he educates the public about anti-corruption. Lastly, he enlightens people to combat corruption.

(2) Anti-Corruption Agency (ACA)

* Activities

In tangent with the national vision, the ACA has in 1996 formulated its own vision, mission and strategies. They are meant to put into focus the need for a concerted effort in the fight against corruption, while at the same time to devise and to fine-tune other workable solutions. Based on the information they collect, the ACA prosecutes anyone with any provable case of corruption or any offence under the corruption laws or the prescribed laws.

While the ACA procures, collates and vets all information received for the efficient detection and identification of all forms of corrupt activities and abuse of power, it enquires and investigates into cases of corruption, malpractice and abuse of power efficiently and rapidly. By enforcing the laws and the regulations fairly and firmly, their sovereignty and the public and the nation's interests are consistently upheld. The ACA is also empowered with specific administrative powers enabling it to endorse or submit reports to heads of departments for the initiation of disciplinary action against civil servants; or for the identification of weaknesses in the departments' machinery and with suggestions as to their remedies. Ordinarily these reports are forwarded as offshoots of investigations of corruption cases. Through the studies and appraisal of the administrative and management systems of specific government agencies or departments, the ACA detects weaknesses which provide

opportunities for corruption and makes appropriate recommendations for their remedy.

Vetting exercises are also being carried out to ensure that only those not under active investigation by the ACA or those with criminal records of ACA are considered for promotion, appointments to important positions, conferments of awards and optional retirements. It is encouraging to note that certain financial institutions before finalising their recruitment of top managerial positions send the candidates' names to the ACA for vetting. It formulates and mounts anti-corruption campaigns through the mass media, forums, seminars, workshops, joint operations, surprise checks etc. To help build a corrupt-free society grounded on universal spiritual and moral values and spearheaded by a clean, efficient and trustworthy government, the ACA works in cooperation with the government and the world-leading anti-corruption organizations. In order to upgrade the ACA into a professional and most reputable agency, they develops systematic and organized human resources development programs and proactive leadership. Special attention is focused in enhancing the leadership and management quality at all levels of ACA officers through the application of human resource development programmes, management of information technology and improved work processes.

(3) Strategy

The government of Malaysia has endorsed the ACA's three-pronged strategy spelt out in its vision, namely:

- Reinforcement/Consolidation Strategy

By this strategy, among other things, proposals for the improvement of the ACA's scheme of service, financial allocation, manpower development and the strengthening of relationship with other agencies are being made.

- Prevention and Promotional Strategy

Under this strategy, the ACA, with the backing of the Government Special Cabinet Committee, acts as an adviser to both government and private

agencies in their planning and implementation of preventive programmes towards instilling awareness on the evils of corruption. This is being done through talks and dialogues and the distribution of video tapes containing inspiring religious talks or corruption dramas on anti-corruption themes. The objective is to motivate or encourage them to combat corruption within their folds. One such motivation is to give appropriate recognition to individuals or agencies that have exhibited exemplary conduct in combating corruption directly or indirectly.

- Enforcement Strategy

This strategy focuses on law enforcement efforts which include reviewing the effectiveness and adequacy of the existing laws on corruption, especially the provisions pertaining to investigation, prosecution and sentencing. As a matter of fact a comprehensive proposal amalgamating the laws on corruption has been drafted and it is being studied by the Attorney General's Office.

2. COMPARATIVE ANALYSIS OF ANTI-CORRUPTION SYSTEMS

While Hong Kong, a British colony for a long time, is now a Special Administrative Region since the turnover to China, Singapore is a city state, which became independent from the Malaysian Federation. Currently the People's Action Party of Prime Minister Goh Chok Tong is the ruling party of Singapore, a state of the parliamentary government. Hong Kong is now a Special Administrative Region of People's Republic of China, under the governance of the Chief Executive, Mr. Tung Chee Hwa. In fact, the anti-corruption bodies in most of the Asian countries are very diverse. A secretariat of the president, a public prosecutor, the police, the Board of Audit and Inspection, the Independent Commission Against Corruption (ICAC), and the Corrupt Practices Investigation Bureau (CPIB) are all the examples according to each legal system of individual countries. In case of Korea, the Board of Audit and Inspection is a constitutional and independent organization. Also, the law on the Board of Audit and Inspection specifies its role of audit and inspection. The ICAC of Hong Kong and the CPIB of Singapore both have common

functions and powers with the Board of Audit and Inspection of Korea, but in the field of anti-corruption, they are more stronger than that of Korea. While the Board of Audit and Inspection of Korea does not have the power of investigation but only indicts the public prosecutor, the ICAC of Hong Kong and the CPIB of Singapore have not only the power of investigation but also arrest without a warrant. In Korea, a warrant must be requested by the prosecutor and issued by the court. But HongKong and Singapore deals with the corruption quite independently. The ICAC of Hong Kong was established in 1974 and the CPIB of Singapore in 1952. The Board of Audit and Inspection (BAI) of Korea was established in 1948. The Commission for the Prevention of Corruption (CPC) was set up in April 1993 as an advisory body for the Chairman of BAI. The Anti-Corruption Branch (ACB) of Singapore was created as a part of Criminal Investigation Department of 1937. Independent working against corruption is common with Hong Kong and Singapore. Despite strong powers and roles, the BAI and the public prosecutor in Korea are very poor at their performance.

Hong Kong and Singapore have established anti-corruption laws, while in Korea the one is still pending in the parliament. While the CPIB of Singapore is responsible to the Prime Minister and the ICAC of Hong Kong to the Chief Executive, the BAI of Korea is under the President of the Republic as a Constitutional government Agency.²⁶⁾

Most of the countries in the world widely control the corruption of the public officials such as bribery, frauds, theft, misappropriation, tax evasion, drug traffic, gambling and malpractices of business. For legislative measures, anti-corruption law is established in Singapore in 1960, in Hong Kong in 1948, in Thailand in 1975, in Malaysia in 1961 and in India in 1947. The US and the UK also established relevant laws to cope with the corruption systematically.

IV . EFFORTS TO FIGHT AGAINST CORRUPTION IN KOREA²⁷⁾

26) Under the Kim Dae Jung administration the Presidential Commission on Anti-Corruption was established as an advisory body to the President on September 10th, 1999.

27) Kim, Taek, 1999, Studies on Bureaucratic Corruption, Seoul: HakMun Publishing Inc. Quah J (1989) Singapore's Experience in Curbing Corruption. In Heidenheimer A (ed),

1. Efforts

Since national independence until now, the corruption with the public affairs has been consistently rampant. The anti-corruption efforts of past administrations have been largely limited to ex post facto measures. The lack of preventive measures and political will have resulted in the failure to combat corruption. In Korea, corruption tends to be recognized as 'modus operandi' itself. Not only public officials but also ordinary citizens perceive that they may not successfully be able to compete with others without corruption. Corruption is being practiced by diversified strata of public officials, politicians, and ordinary citizens. It is true that many previous administrations routinely vowed to get rid of corruption. However, they failed because their policies lacked consistency and were largely patchwork in character.

There are diverse ways to prevent corruption of the public officials in Korea. Currently, the corruption control system in Korea falls into various organizations such as Chong Wa Dae, Office of Prime Minister, every ministry, legislative organ and the judicature. The Committee on Ethics of the Public Officials (CEPO) is also established in Executive branches, the legislative and the judiciary. This immense system may seem to provide a seamless network against corruption. But in reality the current system for corruption control is suffering from a lack of effectiveness and efficiency. There exist no central organs which can establish general anti-corruption programs with a nation-wide and systemic perspective as well as integrate and coordinate the activities of these various anti-corruption organizations. There arise, for example, problems of repetition or conflict among the concerned anti-corruption bodies. Each of 500 national organizations all over the country has its own inspection organization even though there is the Board of Audit and Inspection, the supreme inspection organization. There is so much redundancy of inspection that the public officials sometimes suffer from neurosis of inspection. Even the Criminal System with power of investigation in Korea often caused conflicts over the scope of inspection. When the governmental CEPO did the inspection,

Political Corruption: A Hand Book. New Brunswick, Transaction Publishers, p 182

there were twelve cases of warning and only one case of punishment. On the other hand, when the CEPO in the parliament did it, there were 3 cases of warning. The CEPO in the Supreme Court revealed only 2 cases of warning. It is quite doubtful if this system can be operated effectively unless the integrity of the public officials improves dramatically.

Social and cultural factors such as authoritarian practices, emphasis on regional and academic connections, sectarianism, and paternalism encouraged the prevalence of corruption throughout the entire society. In addition, the growth-oriented economic policy in the past made it a custom that government awarded special privileges to certain companies which, in return for special favors, provided illegal political funds to the politicians who had influence in shaping government policy and operation.

For satisfactory eradication of corruption in the public affairs of Korea, a new mechanism should be created which can guarantee the independence and the neutrality of the BAI and the public prosecution. There should be a unified and standardized system that can integrate all the existing regulations and policies and implement feasible policies. Considering the foreign cases of successful anti-corruption efforts such as the ICAC in Hong Kong, the CPIB in Singapore and the ACA in Malaysia, we should adopt the essential elements for successful anti-corruption efforts.

The Korean Government's new anti-corruption programmes now perfectly tie in with the efforts of the international community to eliminate corruption around the world. In conformity with the anti-bribery treaty that was signed by members of the OECD and went into effect in February 1999, the Korean Government has also tightened its inspection and punishment of those businesses offering bribes to a foreign entity.

The main actions of the incumbent government are-1) the Government picked areas where corruption is most rampant areas which include taxation, construction, the environment, the police and food control - and asked experts in each area to conduct research into ways to prevent corruption.-2)the Government plans to establish anti-corruption systems by enacting laws and forming preventive organizations so that efforts to excise corruption can continue after the term of the Government of the People expires. 3) the

Government plans to drastically increase the participation of citizens in anti-corruption projects. Each and every citizen should become a watchdog. The Government plans to introduce diverse systems so that officials and private citizens can cooperate with each other. 4)the citizens and the Government have thus joined forces to launch a nationwide campaign for the common goal of cleaning up Korean society.

We will now overview the main characteristics of Korea Administration's ethical foundation.

2. Ethical Foundation: An moral integrity in public life

Ethical integrity is not an end in itself; rather, it is a path leading to the delivery to the public of the services and toward goal of integrity.

There are seven relevant principles applying to all aspects of ethical life. Creating the ethical foundation are as follows:

- Selflessness: Holders of public office should take decision solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- Integrity: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.
- Objectivity: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- Accountability: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- Openness: Holders of public office should be as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

- Honesty: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. (The Nolan Commission, 1995)

The establishment and maintenance of integrity in public life and public service requires a number of elements, including: legislation, regulations and codes of conduct; a society whose religious political and social values expect honesty from politician and officials; professionalism among officials; a sense of elitism among senior civic servants; and apolitical leadership which takes both public and private morality seriously.

Together, these elements establish and foster a tradition of ethical public life and an ethical environment in which politicians and officials are generally assumed to be honest. Within such an environment it is also assumed that the laws and means of detection and investigation are sufficient to make it risky and costly to break the rules, accept bribes and become involved in fraud.

It is, however, vital to bear in mind several crucial points:

The ethical environment must be owned, policed, adapted and updated across the public sector;

- Its purpose and intentions must be applied equally and consistently across the public sector;
- The ethical environment must be self-sustaining and integrated; if the ethical environment has potential weak points, new means of accountability must be introduced or existing means upgraded and reinforced to counter these weaknesses;

The ethical environment requires political commitment and leadership to inspire confidence and trust but it should not always be the politicians who have the responsibility to own and police it.

- The ethical environment depends on micro-level changes in order to deal with the consequences of failure which result in :-weak guidance on standards of conduct or poor compliance with procedure.²⁸⁾

28) A Doig, 1994, "Honesty in Politics and Public Spending: The Ethical Environment," paper presented to second seminar on the status and prevention of corruption, Santiago, Chile 4-6

3. Korea Independent Commission against Anti-Corruption (KICAC)

In order to prevent corruption by government employees, the anti-corruption law has called for the formulation of a code of conduct for civil servants, and for strengthening of the financial penalty against corrupt officials and citizens. This is done by recovering any personal gains (and government losses) caused by corrupt practices, as well as confiscating the bribe itself. Provisions for establishing and managing an anti-corruption organization, citizen watch groups and public participation in anti-corruption movements, the codes of conduct for public servants, the education and public information campaigns to strengthen public awareness against corruption were all included in the law.

Presently most of the Asian countries have legislative measures against corruption. The anti-Corruption Law was established in Singapore in 1960, much earlier in Hong Kong in 1948, and in Malaysia in 1961.

The Korean National Assembly passed the anti corruption Bill submitted by the Millennium Democratic Party on June 28th 2001 after more than five years of discussions. It is expected to go into effect by January 2002 following presidential approval. This law allows for the creation of an Anti Corruption Commission under the presidential office, the protection of whistle-blowers, the people's right to ask for an audit and inspection, rewards for reporting corrupt activity, and sanctions against officials fired for corruption. According to the law anybody finding evidence of corruption can report it to the commission, while government officials are mandated immediately to notify it of illegal acts. People within government organizations reporting corruption will be protected from any discriminatory action in the workplace, through those making false reports face up to ten years imprisonment. Officials fired for corruption will be banned from working in any similar posts for five years (Chosun IlBo, 2001). The KICAC act defines the Kicac mission as " overall direction of executive branch policies relating to preventing corruption on the part of officers in Korean Government. The Korea commission is mandated to 1) help the Government establish anti-corruption policies, deliberate on Government practices, and make recommendations; 2) evaluate the progress of the anti-corruption programmes at all levels of public organizations; 3) carry out anti-

corruption education and publicity; 4) support civic organizations' clean-up activities both domestically and internationally; and 5) conduct surveys and collect materials for the formation of an effective anti-corruption movement.

There are of course differences of opinions about the Commission among the ruling party, the opposition party and the non-governmental organizations (NGO).

a) Protection of Whistleblowers

An advocatory system for the rights of employees to 'blow the whistle' on fraud, corruption, government waste, and violations of environmental laws is used as a corruption-controlling device in most of the developed countries. Kim Dae Jung's Administration also introduced such a system enforcing civil watchdog procedures leading to punishment if found guilty. In order to encourage the prosecution of people the government specified in the Anti-Corruption Act that any successful prosecution against corruption may be rewarded 5 - 15% of the government income. Procedures for prosecution and the protection of whistleblowers are specified in the Act so that a prosecutor may not be identified, but protected. Punishment is prepared in case the accused perpetrates harm to the prosecutor, or if the prosecution is false.

b) Ethics Code of Public Servants

According to the KICAC ACT, , the public servants of Korea must follow ethics code as follows (kicac act, 2001): in Korea the public servants may not receive cash, securities, gifts and entertainment without permission from the Chief Executive. If the gifts are no more than ordinary for other people and are not directly related with the job, they are acceptable. and a public servant's loan from a friend cannot be received.

- in case a public servant receives a gift not in accordance with the code of conduct, he or she must obtain a prior approval from his or her chief. If the public servant fails to obtain a prior approval, he or she must obtain an ex post facto approval
- a chief should order his or her subordinate officials to return honorarium which is not approved. If it is impossible to return it, the chief should dispose of it.
- any public servant who is in violation of the kicac act Codes on Ethics .

- Restrained Activities : using public position for personal benefit, providing benefits to influence office actions, using confidential government information, receiving gifts by officials or employees, representing private clients before public bodies, outside employment/ business activities, nepotism, competitive bidding, post employment restrictions.

4. Independence of the Board of Audit and Inspection & the Criminal System

Installation of independent anti-corruption organizations free from the influence of politics is essential for policy implementation. The ICAC of Hong Kong and its Corruption Prevention Department are directly answerable to the Chief Executive, so the independence of the Commission is assured. The CPIB of Singapore also have the independence so that it can arrest and detain without a warrant and chase bank accounts. But in the case of Korea, why is it that so many people feel skeptical about the investigation of the Supreme Public Prosecutor's Office? This is because so far the public prosecutor has been too sensitive to the political power and the public opinion. Although the public prosecutor is called the quasi-judicial organ, it in fact belongs to the Ministry of Justice. Also if it comes to investigate the positions of deputy secretary or higher ones, the public prosecutor must obtain approval from the director of the Prosecutors' Office. Thus, its independence or neutrality is never assured. The BAI does not have powers of investigation nor jurisdiction even though it can charge and request punishment. With all this backdrop the work of the BAI against corruption should be faced with limitations.

1) Prevention of Corruption by the Board of Audit and Inspection (BAI)

In spite of the inspection performance of government operations and duties of government officials, the BAI was limited to ex post facto measures rather than preventive ones. For entire investigation of corruption the BAI first needs to be strengthened in terms of human resources. It is doubtful whether the BAI of 850 staff members alone can cover all the audits and inspections of the public

officials in Korea. Kim Young Sam Administration have intended to revise the laws regarding the BAI, but it was too little. Realistic institutions should be introduced. Some ways for the stronger BAI are provided here.

First, the BAI needs to be reorganized and enlarged. It has only one division now for inspection of performance of government operations and duties of government officials. It is short-staffed too. The current level of the inspector, which corresponds to the deputy minister, should be upgraded to the level of the minister. To collect information secretly about the corrupt officials, a new task force needs to be installed in the BAI like the Performance Inspection Intelligence.

Second, by revising the law about the BAI the responsibilities and rights regarding the inspection of the governmental works need to be redefined in a greater detail. Integration of all the separate inspection bodies in each administrative systems at all levels should be considered too. A dispatching system of inspectors from the BAI to each governmental body needs to be examined too. The BAI can have its branches spread all over the local provinces.

Third, the BAI needs more empowerment. Even though it has the power of audit and inspection, it does not have the right of investigation. This limits the BAI only to cope with the side works, not the main part.

Fourth, the scientific research and analysis should be added to the BAI so as to show the direction of inspection policies. It is quite important to evaluate the inspection of the BAI in a systematic way for better implementation of policies. In addition, it can be debatable whether the BAI should belong to the executive branch or to the parliament. Also the BAI should be empowered to chase the bank accounts involved in the corruption. The Constitution or the laws for the BAI need to be reconsidered for its independence.

2) Strengthening the Criminal prosecution System

Neutralization of the organizations with immense power such as the public prosecutor's office (PPO) or the police has been continuously demanded since the Liberal Party of Lee Seung Man (the first president of Korea) in the 1950's. Criticism towards the public prosecutor's office culminated recently with

the impeachment of the Supreme Public Prosecutor. Without fair exercise of government power by the Criminal System there would be no real democracy. The fact that its independence is still an issue under the Kim Dae Jung Administration reveals the government power is not yet neutral to the politics. Since the local autonomy system started there have been cases where the investigation of the public prosecutor was used to tame local self-governments. When election-related investigation was underway, the public prosecutor sometimes was partial towards the opposition party. Even with substantial proofs the public prosecutor did not fully investigate if the ruling party should become vulnerable.

(1) Personnel Administration

Appointment of the public prosecutor general or any higher positions in the public prosecutor's office (PPO) is likely to be influenced by the political leaders such as the president. Recent activities of the PPO have shown that its officials under the influence of the political leadership cannot be impartial in the execution of the criminal judgement. It ought to be the public prosecutor general who takes charge of the personnel changes free from the political power. As long as there is a hierarchical personnel system in the PPO the inclination to surrender to the upper class or the current government power will not disappear. Therefore, the hierarchy and the age limit system in the current personnel administration should be revised. The public prosecutor general needs to be forbidden to get any public job within 3 years after retirement. So a new system of the PPO Personnel Administration, which is operated by the non-PPO staffs, can be introduced, as some NGOs suggest.

(2) Dispatch of a Public Prosecutor into the Presidential Secretariat

If a public prosecutor, who was once dispatched to the Chong Wa Dae-(president house in Korea), gets back to work in the PPO, the PPO naturally gets sensitive to the political power and so, the neutrality of the PPO becomes more difficult. Thus, the current dispatch system to the presidential secretariat should be abolished. Even in the Kim Dae Jung Administration a public prosecutor in the Supreme Public Prosecutor's Office was appointed as a legal secretariat of Chong Wa Dae PR just like the past practices. The only

difference from the past is that when dispatched, the public prosecutor resigns from the PPO and gets back to the PPO when returning from the Chong Wa Dae. This is no more than the political attempts to control the PPO. In the past Chun Doo Hwan-(Ex-president in Korea) Administration in the 1980's even a judge was dispatched to influence the Judiciary. Thus, in order to keep the PPO independent of the political power, a lawyer out of office should be dispatched rather than a public prosecutor.

(3) Exclusive Power of Prosecution

Under the present laws if a judge drops a prosecution or a complaint, the countermeasures are as follows. First, based on section 10 of the Law on the PPO, to file a protest to upper public prosecutor's office. Second, based on section 260 of the criminal procedure code, to request arbitration to a high court of justice. Besides, based on the law of the Constitutional Court, to file a constitutional complaint. Even if you take the countermeasures mentioned above, however, you cannot expect any positive result from the PPO, which is controlled by the political power. Thus, a supplementary system like a PPO Inspection Committee should be introduced so that it may request a retrial in cooperation with the civil society. By revising the section 260 of the criminal procedure code, we can expand the scope of the cases which can request arbitration so that unfair treatment of the cases by the PPO may be minimized. In addition, a system of a special prosecutor should be considered in the context of independence from the government power and from the public opinion.

V. CONCLUSION

So far the trends of anti-corruption in global communities are reviewed with focus on UN, OECD, OAS, USA and Asian countries. These models needed to be considered because Korea suffers from inefficiency for the lack of anti-corruption infrastructure. Systematic and strenuous activities of global cases can be very suggestive to Korean situation. For example, the ICAC's consistent effort to keep trust of people by swearing to root out the corruption

teaches a lesson for Korea. The great success of the ICAC was possible with the financial assistance from people. Also the strict enforcement of laws by the CPIB takes effect for the corruption to disappear. The FCPA of U.S. severely punishes the public officials corrupt with bribery or property misappropriation.

Global Combating corruption should focus on the reform of systems. It requires an economic approach, could with great political sensitivity. The design and implementation of the measures this study has been discussing must obviously be tailored to each country's conditions, but at the same time, international cooperation can make a difference. International cooperation can help national leaders develop political resolve.

The significant and desirable policy implementation would be produced if combating corruption strategies were adopted in each countries. But not be efficient and effective for their government. Global Combating corruption should focus on the reform of systems. It requires an economic approach with great political sensitivity. The design and implementation of the measures of this study must obviously be tailored to each country's conditions. At the same time, international cooperation can make a difference. International cooperation can help national leaders develop political resolve.²⁹⁾

This Study suggests four related areas aimed at discouraging bribery and corruption:

- improving global corporate governance standards and increasing financial transparency
- creating sustainable and transparent that international monetary and accounting systems and audit basis
- tackling money laundering whose relevance to bribery in transnational business is apparent

improving good governance in the public service of the OECD member countries, thus not only supply but also the demand sides of the corruption market³⁰⁾

29) Klitgaard, Robert, 1998, International Cooperation Against Corruption, Finance and Development, IMF volume 35, p69

30) OECD. 2000, No Longer Business as Usual, <http://www.oecd.org>

This Study suggests four related areas aimed at discouraging bribery and corruption:

- improving global corporate governance standards and increasing financial transparency, as essential weapons in the fight against corruption
- sustainable and transparent that international monetary, accounting and audit basis
- tackling substantial money laundering whose relevance to bribery in transnational business quickly became apparent

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저자약력 : 저자는 한국과 미국, 그리고 독일에서 행정학과 부패이론을 연구한 학자로서 “관료부패이론”등을 발표하였다. 관심분야는 윤리와 부패, 인사행정, 정책평가 등이다.