

The Role of the National Assembly in Controlling Corruption : the Case of Korea

Young Jong Kim *

ABSTRACT

For quiet some time, politicians and scholars have contended their own prescription to cure the widespread corruption phenomena. Yet, it seems that their systems do not work because of the superficial measures against the corruption phenomena. The approach taken by the National Assembly to eliminate corruption exemplifies such superficial measures. The important role and responsibility of lawmakers cannot be emphasized enough since they are in the position to operate the engine for anti-corruption.

This paper discusses the role of the National Assembly in Korea, with a special focus on the effective mechanism to eliminate corruption. In this paper, the author considers the legislation of the integrated anti-corruption law with the lawmakers and their role. In addition, it is argued that the anti-corruption law should be independent from the political influence of external forces. In conclusion, this paper suggests the proper role of National Assembly of Korea in controlling corruption, with special emphasis on the improving functions of the National Assembly and the political culture.

* Ph. D. & Professor, SoongSil University.

Introduction

As with most nations, a positive prospect for vitality as well as negative prospects for instability is typical of an election year in Korea. It seems that Korea needs a strong leadership with visions for the new era in order to cope with the enormous challenges that the new globalization requires. There is no doubt that the new environment in the new millennium would require new patterns of system and model in nations around the world, especially in emerging economies like Korea. Especially for countries such as Korea that struggle at the toddler stage of democracy and market economy, politics must be the driving engine for reforms. (Korea Herald, Jan.10, 2000)

Korea, unfortunately, has been notorious for its corruption, especially in its public sector. A recent opinion poll demonstrates that politics in Korea has degraded into the most corrupt profession in this country. Even the Corruption Perception Index (CPI) by Transparency International announced in 1999 reflects the seriousness of the corruption in Korea. Korea with its CPI of 3.80/10 is ranked as 50th out of 99 countries where the 1st country is supposed to have the lowest overall corruption. Although some movements of eliminating corruption by previous governments have been attempted, the results were far from achieving success.

For quiet some time, politicians and scholars have contended their own prescription to cure the widespread corruption phenomena. Yet, it seems that their systems do not work because of the superficial measures against the corruption phenomena. The approach taken by the National Assembly to eliminate corruption exemplifies such superficial measures. It cannot be emphasized enough, the important role and responsibility of lawmakers since they are in the position to operate mechanism in controlling corruption.

This paper discusses the role of the National Assembly in Korea, with a special focus on the effective mechanism to eliminate corruption. In this paper, the author considers the legislation of the integrated anti-corruption law with the lawmakers and their role. In addition, it is argued that the anti-corruption law should be independent from the political influence of external forces. In conclusion, this paper suggests the proper role of National Assembly of Korea in controlling corruption, with special emphasis on the improving functions of the National Assembly and the political culture.

The Reality of The Corruption Phenomena

Corruption is a universal human phenomenon since it exists in every society that is based upon its own economy, political structure, and social culture. It occurs in democracies and military dictatorships and at all levels of development and in all types of economic systems in one form or another. Corruption can be best described as a "social disease" like a cancer that can bring about a dysfunction of political and administrative systems to a society. It is the obstacle to national development and

tarnishes the country's image. The corruption phenomenon is a perplexing problem that needs to be carefully analyzed with an "eagle eye" view (Kim, 1994, p. 199). The effect and characteristics of corruption have been described in various ways. Corruption erodes the moral fabric of every society; undermines democracy; violates the social and economic rights of the poor and the vulnerable; subverts the rule of law which is the basis of every civilized society; retards development; and denies societies', particularly the poor, benefits of free and open competition (Lima Declaration, 1997). In addition, corruption discourages productivity and brings forth distrust, but encourages social conflict and dissatisfaction. When corruption becomes a prevalent norm, it could cause people to protest against their government as modes of collective behavior and social movement. In the most extreme case, collective behaviors might even accelerate the collapse of their nation's government. At this point, corruption problems become so severe that there is absolutely no public confidence in the government, and people often approve more drastic and harmful measures to correct the economic or political situation without any sound rationale basis.

When significant number of public officials or bureaucrats in Korea that engage in corruption, this could imply that the government itself is mostly corrupted and the spread of corruption is fairly severe. Assuming that the whole government as being corrupted is linked to the very nature of corruption. The extent of corruption is always difficult to measure. It is often the case that we only see few pieces of the puzzle or just the tip of the iceberg. Therefore, it is necessary to observe the reality of corruption with great care and comprehensiveness since a few grave incidences relating to corruption could suggest the reality of corruption in our society.

Corruption may also bring a sense of distrust, conflicts, dissatisfaction, inefficiency and ineffectiveness to the administration or society. According to reports made available by the prosecution authorities in Korea, a total of 3,887 government employees were embroiled in various irregularities in 1996. This marks a sharp increase of 28 percent compared with the 1995's figures. More significantly, however, is the startling fact that the officials involved in bribery cases increased dramatically, showing a staggering 93.5 percent rise over the previous year. As a result, the prosecution conducted a full-scale inspection of officials over several months, concentrating on allegations of corruption and irregularities. This shows the ongoing corruption such as peddling, abuse of power, decadence in life style and other forms of wrongdoing. In the past years, the mass media has even called Korea the country of ROTC (the Republic of Total Corruption)' which demonstrates the extent of corruption in Korea.

As more officials become involved in corruption behavior, it also has impact on the economy. These include the increase of the cost of business and inefficient allocation of resources, which costs taxpayers. Companies are likely to engage in improper activities such as handing bribes to public officials or providing entertainment to

them in order to have favorable policies. In addition, the administration goes through a waste of resources because of corruption in the government. For instance, chaebols -- Korean giant conglomerat-

es would bribe public officials for a favorable policy and in return, public officials would call banks to instruct them to give loans to a particular conglomerate. This resulted in excessive loans and misallocation of money that brought Kia, Hanbo and other banking systems to collapse.

Government corruption also has global implications. As the news of Korea's economic crisis reached the world with escalating the global concern about its economic outlook, foreign presses along with other experts in business, politics, and economy made carefully attempts to find out the causes of such devastating effect. Since corruption was reported as a possible cause for the economic collapse, companies that would have otherwise engaged in business transactions with Korea could be hesitate to do so. This, for Korea means loss of investments and profits that could have been avoided if it were not for the corruption.

The Role of the National Assembly in Preventing Corruption

The complexity and political sensitivity of corruption issues has often posed many challenges to those who want to propose effective anti-corruption policies and measures. In order to adopt effective anti-corruption policies, different types of corruptions among the each groups must be taken into account. For instance, corruption can occur where there is conglomeration between political powers and businesses, political powers and the press or even between businesses and the press. There also has been conglomeration between military powers and businesses in Korea's past history.

The National Assembly in this sense has the important role of controlling the corruption phenomena through the use of constitutional mechanism in Korea. The National Assembly of Korea is composed of 299 Members who serve a four-year term. Among the 299 Members, 253 Members are elected from single-member electoral districts and the political parties depending on their national tickets appoint 46 Members. Under Chapter III of the Korean Constitution, the National Assembly has the power to legislate the suggested bill and control the Administration. It is the main national legislative body of Korea. The Korean Constitution permits bills to be introduced by the Members of the National Assembly or through the Executive branch. In order for a bill to pass, the bill must be voted in favor by majority of the members and a majority of the members must be present for the vote. Then each bill passed by the National Assembly is sent to the President where he has fifteen days to promulgate it. If he rejects the bill the National Assembly may vote for the bill with more than one half of the Members present with two-thirds of the Members voting in

favor. Then the bill becomes an Act.

Up to this point, the Korean Assembly, however, has not fully managed the anti-corruption mechanism satisfactorily. A recent poll conducted by the Gallup International at the request of Transparency International reveals that 33 percent of those questioned thought corruption, especially offering bribes, increased in the last five years. On the other hand, 22 percent believed that offering bribes have declined. (Korea times Jan. 21, 2000). One of the main reasons is because of its lack of balanced political approach. For example, the National Assembly sessions have frequently turned into a battleground for partisan warfare of shameless mutual accusations where the promise to realize a small government and clean politics has long been forgotten. The pledge to carry out political reform has turned into a mere slogan as the politicians indulge for selfish interests and not the public welfare or the future of the nation. In turn, the lawmakers are very slow in controlling mal-administration phenomena in the process of power-related functions and roles of the National Assembly.

One of the best strategies to fight corruption is to have an ideological self-moralizing control mechanism.(Werner, 1983). In this case, stimulating public officials and citizens' ethical morality should have the highest level of priority to control the external corrupt temptations. This control mechanism that are often used against corruption also requires an institutional mechanism. In terms of this perspective, Korea lacked legal institutionalization to fight corruption in the past. Of course, it is noted that mismanagement might create problems in the process of anti-corruption policies even if any country may establish excellent legal systems against corruption incidences. Nevertheless, we should recognize that legal institutionalization is a very good control mechanism in dealing with corruption.

The National Assembly is yet to implement an effective anti-corruption act. This could be because of the following reasons: First, the Korean National Assembly has failed to implement effective anti-corruption policies because of the political conflict within the organization. The inter-party confrontation in Korea has been seriously impaired the political system and the development of the country. The functions and roles of the National Assembly are important because the serious confrontation of inter-political parties results are quite many. Second, the parliamentary paralysis lies in the willingness to compromise and to deal with issues in a truly democratic fashion. For example, the bill of integrated anti-corruption law should be passed by mutual agreement among parties. In case of Parliamentary hearing in Dec.8 1998, regarding the economic hearing of the IMF system, the hearing failed to meet public expectations. Because the differences over procedural matters for advancing their partisans' gains rather than making national interests a chief priority have been requested in the system. Third, the Members of the National Assembly are focused toward a policy that would benefit their self-interests or particular interest groups that they have close ties. Most

of their promises have not been kept and the people of Korea are left with numerable disappointments. This may be the reason why one news afterthought called the National Assembly as possibly one of the No. 1 public enemy for the people of Korea and described the Members as sheer political prostitutes . (Korea Herald, Jan. 20, 2000).

The role of National Assembly in Korea must be restored to obtain the goal of successful control against the widespread corruption in the country. Currently, the National Assembly, despite of the possible mechanisms, has not been engaged in controlling corruption effectively. It should be pointed out that the role of National Assembly must be strengthened to maximize the control mechanism of corruption phenomena in the system. One of the policies that the National Assembly has to implement is to inspect the Administration and the public officials in the government, since the Assembly has the power. On the other hand, the lawmakers themselves involve in political corruption, also called as the cost of rice-cakes. Lawmakers in the previous regimes have frequently shown that they involved in corruption and were prosecuted because of it. We need to notice that one research institute disclosed that the most distrust group by people is just the group of politicians because they are serious involved in corruption.

Most recently, non-government organizations and nearly 100 civic groups were teamed up to punish corrupt candidates or lawmakers and to prepare for the upcoming April election. Candidates were blacklisted for their past corruption scandals, who resisted reform bills, neglected their duties, and suspected of misdemeanors. (Korea Times Jan. 9, 2000). Although such blacklists seem to affect the politicians less than expected, it is certainly one of the strategies to control corruption. This movement seems to exemplify how the people of Korea perceive politicians and corruption. They are trying to become watchdogs since the National Assembly is not fulfilling their duties as representatives of the people. Corruption among politicians is in no doubt an obstacle for the Korean economy and society as a whole.

Suggested Anti-Corruption Act for Korea

One of the important role and function as the National Assembly is required to strengthen the legal system to control the rampant corruption phenomena in this country. The National Assembly must promote legislation to control corruption.(Constitutional Law, Article 40) Although some anti-corruption acts have not work well because of the complexity and multiplicity of corruption, the legislation toward an integrated prevention of corruption act is the first step in preventing corruption. By adopting such acts, the government demonstrates its willingness to deal with the corruption matter.

From a global perspective, recent trends and movements in fighting corruption seems

very positive and strong. For example, the OECD Convention passed on May 26, in 1997 requested each member country to criminalize the bribing of foreign officials by the end of 1998. The European Union attempted to implement its own anti-corruption policies recommended by the Council of Ministers of the EU in May 1997. Major countries for successful anti-corruption systems are compared as follows :

First, nations that are focused on preventing corruption adopted prevention of corruption acts. For example, Singapore stipulated 'Prevention of Corruption Act' in 1937 (amended in 1960), Hong Kong in 1948(amended in 1971), Australia in 1989, and the U.S.A. in 1934 (amended in 1977) called 'Foreign Corrupt Practices Act) and 'Ethics in Government' in 1978 (amended 1989). Besides, Thailand made 'Anti-Graft and Corrupt Act' in 1975, Philippines in 1960, India in 1947, and Malaysia in 1961. Furthermore, Italy and Japan regulated the anti-corruption policies in each of its general criminal law. Also, Netherlands and Russia and China included in criminal law or related special regulations in their countries. However, Korea still has not stipulated an independent prevention of corruption act. Therefore, the current diversified anti-corruption related the lawmakers should change laws and top political leaders with a strong anti-corruption will.

Second, the countries that adopted prevention of corruption acts also established an independent anti-corruption committee or commission to deal with the issues of corruption. For example, Singapore set CPIB (Corrupt Practices Investigation Bureau), which has a power of investigation on corruption cases including arrest power without sermons depending on situations. In case of Hong Kong, ICAC (Independent Commission against Corruption) has given a full power to investigate, educate, publish, and plan for anti-corruption purpose by the government. In particular, the ICAC also has a power to investigate the cases of corruption focusing on public officials, lawmakers, public businessmen, and private businessmen. On the other hand, in case of Australia, ICAC has a strong power to investigate the corruption incidences separated from the Government, without any political intervention. In particular, it is noted that the concept of corruption has been defined in the Act by speculating official misconduct, bribery, fraud, theft, embezzlement, election bribery, tax evasion, illegal gambling, company violations, and violence.

Third, the countries, which have anti-corruption acts stipulate strict penalties for the corrupted behaviors, are likely to have their anti-corruption control mechanism conformed to the citizens' legal expectation. For instance, in cases of Hong Kong, Singapore, England, and Japan the corruption related laws regulate maximum 7 years imprisonment. On the other hand, Italy regulates 20 years imprisonment in maximum, while Philippines requires 10 years' imprisonment in maximum. Interestingly, there are several countries that penalize the corrupt behaviors up to a death penalty in the anti-corruption act. However, Korea seems to show too much tolerance toward the

corruption-related criminals. In detailed, the indictment rate by public persecutor for bribed officials falls in only 40%, compared with 60% of general criminals' indictment rate. Also, the penal servitude without a stay of execution at first trial for bribed criminals fall in only 25.6%. Therefore, at most 88% of the prosecuted bribed corruption incidences are released by the first or second court in Korea. Not only the application of the law for the corrupt behaviors but also special pardon by President for them in terms of political purpose have frequently executed in the government.

The Korean National Assembly should implement the Integrated Prevention of Corruption (A Suggested Act), which can be the new mechanism for fighting corruption in Korea. It may include the following elements by focusing on the major systematic control provisions in terms of legal perspective. Chapter one may focus on the fundamental purpose and general principles for anti-corruption, including responsibilities and duties of government, business, public organizations, and citizens. In this chapter, it should emphasize the integrated strategies for successful anti-corruption policies by various related methodologies such as system change, special education and training, innovation of mentality, and citizens' voluntary participation against rampant corruption phenomena. Chapter two should define public officials' concept, their ethics, and their principles of actions. In particular, in this chapter, it should include the concept of public officials such as national, local, elected, political, and honorable positions but also social leaders such as medical doctors, lawyers, businessmen, bank men, and managers in press. Chapter three should focus on public officials' property registration and disclosure. In particular, it should require that most of high-ranking public officials should register their properties at the related office within designated periods. The Anti-Corruption Committee should investigate and examine the registered properties by the principles of this act. Chapter four should deal with the protection of whistle blowers, especially including both whistle blowers not only in their own offices as public officials but also ordinary citizens in their current lives' place to reveal public information for the public interests. Chapter five should consider how to control money laundering, or the prohibition of dealing with black money involving in corruption. Chapter six should focus on detailed information of punishment regarding corrupt behavior. In this chapter, it should stipulate different penalties, depending on various typologies of corruption. Chapter seven should focus on forfeits of illegal properties created by corruption incidences. Chapter eight should focus on how to regulate lobbying. Lobby process, in general, almost always brings with bribing in terms of demands and supplies perspectives.

Chapter nine should focus on how to establish an independent anti-corruption committee and their role and function. This chapter is a core of the 'integrated prevention of corruption act' because the committee must show their broad responsibilities and assignments in the process of anti-corruption policy making. For instance,

the Committee may have a right to investigate, educate, decide, and request cooperation from other institutions in the process of implementing the anti-corruption policies. In particular, there should be two separate independent committees located in two different governments, one in a central government and the other in a local government. Chapter ten should deal with the issue of educating anti-corruption. Students in formal educational systems should be educated about the subject. In particular, this chapter should attempt to require anti-corruption education in formal educational institutions or social educational systems. The chapter eleven should focus on rewarding the outstanding public officials and providing special promotions or special awards. This would allow others to follow their excellent public officials' service toward citizens. The final chapter should discuss establishing a special committee to coordinate public officials' morale. It is very important to investigate and improve their morale every year by using more scientific methods since the level of public officials' morale could be checked in relation to public officials' corruption.

Conclusion

Corruption brings about distrust and social conflict both in this country and abroad. It also is the public enemy of human beings, causes dysfunction, and threatens the development and peace of nations. In the era of globalization and information revolution, there is a special need for closer cooperation, collaboration of information, and discussion of common interests in the preventing corruption. What is the best strategy to combat against serious corruption phenomena, which is notoriously growing in any country? Would you suggest any panacea to heal the social cancer threatening the democratic development ion of corruption disease? In other word, eliminating corruption requires more than a mere attempt by one country. It is especially important to search for the new paradigm in preventing corruption in the new millenium.

This paper discussed the reality of fighting corruption and the role of the National Assembly in controlling corruption. Although, the corruption phenomena in Korea must be kept under control in order to avoid further economic recession, it is often said than done. It is true that the previous regimes have attempted to clean up the corruption phenomena but failed because of its lack of management and legal systems. It is clear that Korean government needs a broader understanding on these issues and strong will to act decisively against the current corruption problems in the country. Therefore, we strongly recommend the current Administration to establish an independent integrated anti-corruption committee and prevention of corruption act that is least likely influenced by the political sectors in the process of anti-corruption policy making

In short, the best control mechanism against corruption would be desirable when related corruption variables such as government, environment in civil society, audit and

inspection related organizations (e.g.: BAI and Public Persecutors, ICAC etc.), and public officials' morality work well without any conflict among the different variables. If we do so, we can expect to establish 'Republics of Social Justice' in near future.

References

- Act on the Promulgation of Acts and Decrees, etc. (1982). in 1 Statutes of the Republic of Korea.
- Amsden, Alice H. (1989). *Asia's Next Giant: South Korea and Late Industrialization*. New York : Oxford University Press.
- Bridges, Brian. (1986). *Korea and The West*. London: Routledge & Kegan Paul.
- Brzezinski, Zbigniew. (1990). *The Grand Failure*. New York : Macmillan Publishing Company.
- Burrell, Gibson and Morgan, Gareth. (1979). *Sociological Paradigm and Organizational Analysis: Elements of the Sociology of Corporate Life*. London: Heineman. 1979.
- Caiden, Gerald E. & Kim, Bun Woong (ed.)(1991). *A Dragon's Progress : development administration in Korea*. West Hartford: Kumarian Press.
- Frederickson, H. George (ed.)(1993). *Ethics and Public Administration*. New York: M.E. Sharpe. Inc.
- Geis, Gilbert (1974). and Avocational Crime, in Hand Book of Criminology. ed. Daniel Glazer Chicago: Tand McNally.
- Gould, David J.(1983). *The Effects of Corruption Administrative Performance: illustration for developing countries*. Washington: The World Bank. 1983.
- Hammer, Darrel P. (1986). *The USSR: the Politics of Oligarchy*. Boulder: Westview.
- Heady, Ferrel(1991). *Public Administration: A Comparative Perspective*. New York: Marcel Dekker. Inc.
- Henderson, Gregory (1968). *Korea: The Politics of the Vortex*. Cambridge: Harvard University Press.
- Holmes, Leslie (1993). *The End of Communist Power: anti-corruption campaigns and legitimization crisis*. New York : Oxford University Press.
- Huntington, Samuel (1968). *Political Order in Changing Society*. New Haven: Yale University Press. 1968.
- Johnston, Michael (1982). *Political Corruption and Public Policy in America*. Monterey: Brooks/Cole Publishing Company.
- Kim, Young Jong (1998). *Korean Public Administration and Corruption Studies (2nd Ed.)* Seoul : The HakMun Publishing Inc.
- _____ (1997). *New Development Administration*. Seoul :Bobmun Sa.
- _____ (1996). *Corruptionology(3rd ed.)*. Seoul : The SoongSil University Press.
- _____ (1994). *Bureaucratic Corruption (4th ed.)*. Seoul : The Chomyung Press.

- _____ (1993). "Preventing Corruption in Korea : a comparative perspective among Korea, Singapore, and Hong Kong." presented at *the 6th International Anti-Corruption Conference*. Cancun. Mexico. Nov.21-26. pp. 1 ~ 20.
- _____ (1990). "Prevention Strategies of Bureaucratic Corruption in Developing Countries : The Case of Korea." presented at *the International Conference on the Global Village*. Miami. FL. Feb.7 ~ 10. pp. 1 ~ 10.
- Kim, Bun Woong and Kim, Pan Suk (1997). *Korean Public Administration Seoul* : Hollym.
- Klitgaard, Robert (1988). *Controlling Corruption*. Berkeley: University of California Press.
- Korea Herald. Jan. 20, 2000.
- Korea Times. July 14, 1994.
- _____. Jan. 9, 2000.
- Leinwand, Gerald (1974). *Political Corruption*, New York : Pocket Books.
- Lilley, James R. (1993). "US. Security Policy and the Korean Peninsula in Korea's New Challenges and Kim Young Sam", New York: The Carnegie Council on Ethics and International Affairs, pp. 119 ~ 142.
- Martin, Hart-Landsberg (1993). *The Rush to Development : economic change and political struggle in South Korea*. New York : Monthly Review Press.
- Mazarr, Michael J. (1991). *Korea 1991 : the road to peace*. Boulder : Westview Press.
- Siegel, Larry J. (1995). *Criminology* St. Paul : West Publishing Co.
- Sigur, Christopher J. (1993). *Korea's New Challenges and Kim Young Sam*. New York: The Carnegie Council on Ethics and International Affairs.
- Simis, Konstantin M. (1982). *The Corrupt Society : the secret world of Soviet capitalism*. New York : Simon and Schuster.
- Sutherland, Edwin (1983). *White-Collar Crime : The Uncut Version New Haven*: Yale University Press.
- The Lima Declaration* (Sept.7-11, 1997). Lima. Peru
- TI (1999). *Corruption Perceptions Index*.
- US. House of Representatives. Committee on International Relations (1978) *Investigation of Korean-American Relations*. Wasington,D.C. : US. Government Printing Office.
- Werner, Simcha B. (1983). "New Direction in the Study of Administrative Corruption" in *Public Administration Review*. Vol.43 (No.2)