

# 공무원 윤리의 정립방안

## Ethical strategies in the Civil Service : case of korean public administration.

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### ABSTRACT

This study is focused on the issue of ethical strategies and anti corruption. Ethical study approaches on the part of the government are not expected to be so successful because the problem is too complicated. That is why appropriate comprehension of the issue is required first. Nowadays, for example, the moral management of civil service in Korea is so-called Significant agenda against which a strong combination of legal and executive systems should be prepared.

This study explores the ethical strategies and combating corruption in Korea. In their analysis, research data and legislative contents in particular are thoroughly dealt with. Main focus in this study is put on the objectives as follows:

First, to introduce the definition of moral and ethical attitudes in the public service,

Second, to define each of the functions and theorys of bureaucrats in korea,

Third, to examine the current ethical and anti-corruption systems and their methods in Korea and the possible answers with focus on the Korea ICAC, Board of Audit and Inspection of Korea and the Criminal Prosecution System in Korea.

Keywords : Civil Service, Ethical System KICAC, Watchdog Procedures

## I. INTRODUCTION

Korean Government have been struggling to provide an moral and transparent public service for the citizens and to curb bureaucratic corruption. The immoral public service has resulted in a dysfunction that has corroded public confidence and raised conflicts between the government and the people . The Korean experiences in dealing with ethics in the public service has shown that a lack of ethical strategies can raise serious obstacle against all efforts to increse social disipline. Korea has long suffered from discrepancies between the expected level of performance and its actual performance because of corruption in the public service(Y.J. Kim,1998)

Presently we are witnessing an enormous collision of the corrupt and the anticorrupt thrashing about like surging waves. A recent scandal involving a president of firm who was hit by bribery by a power elite of the Blue House (Korean President's House, so-called Chong-Wa-Dae) reveals how deeply our society is corrupt . In fact, the issue of corruption in Korea is not a new thing. Since the first democratic government of Lee Seung Man (the first Korean president,1948~1960), all the following Korean administrations have tried to fight against corruption, but they failed. Although the first republic in Korea, for example, received enough Official Development Assistance (ODA) from overseas sources which gave them a chance to combat corruption, that republic collapsed due to various political corruption scandals - such as the rigged election of March 15th ,1960.

The third and fourth republics, which were established by the military coup d'etat of May 16th 1961,1972 were a little bit more successful in combating corruption through more innovative measures. Economic development under the dictatorship of the president Park Jung Hee, however, brought about corruption once more notwithstanding their avowed good aims. Ironically the corruption served as a catalyst for economic growth!

The fifth and sixth republics (through1981~1992)did not overcome the spate of corruption, and unfortunately the two ex-presidents, Chon Doo Hwan and Roh Tae Woo, were put into a judicial settlement. Inevitably the people's mistrust towards the government was growing, since for decades the people had been suffering from the corruption. In addition, there had not been enough research or study upon any policy for anti-corruption, even though many people recognized how important it was to carry out systematic improvements to prevent corruption. Soon after President Noh Moo Hyun's inauguration in 2003, we- the people and the government - introduced and implemented

various initiatives to combat corruption, resulting in success to some extent. Still, the corruption of political power was not completely abolished.

There is a characteristic of corruption in Korea that is a kind of time-honored tradition without which a 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 innovate change in the conduct of administrations. Successful models of anti-corruption elsewhere should be considered. Corruption in Korea even acted as a spring-board for the careers of public servants, and as a lubricant for economic development. For too long the officials have remained complacent in the culture of corruption under regimes lacking in legitimacy. Unless we eradicate corruption from our society, even the basic frameworks of our nation may be threatened and by not acting we will not strengthen our competitiveness. Thus, 'corruption' has to be explored for many reasons, and we must analyze how to create effective anti-corruption measures (T. kim, 2002).

## II. Ethical Theory Analysis of Civil Service Systems

The anti-corruption measures in Asia are noted for their strict, even harsh, punishment levels, and their strong legal enforcement acting against corruption. Most Asian countries already have appropriate laws and they apply them. For instance, 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 chapter we will examine why this is generally so.

### 1. 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 considerations regarding personal, close family, private clique, pecuniary or status gains or violates rules against the exercise of certain types of private-regarding influence." Examples of behavior violating "formal duties" include bribery (use of compensation to pervert the judgment of a person in a position 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. Fredericson, 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 characteristics 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 practice such fraud to let the situation prevail (S. H. Alatas, 1999).

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

### III. Ethical Systems and Strategies in Korea

#### 1. Korea Anti-Corruption Systems

Kim Dae Jung's Administration has launched comprehensive anti-corruption programmes in response to the people's desire for a corruption-free society. The Korean people expected the government to reform the society overall as they have experienced and come to understand the adverse effects of corruption on the economy during the financial crisis and subsequent political turmoil. Although Korea rapidly attained enormous economic development in only a few decades, the long-standing collusion between politics and business proved to be a major cause of the unprecedented economic crisis of 1997. 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.

1. 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 weakness;

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.(A. Doig,1994)

### 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 IIBo, 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).

#### 1) Protection of Whistleblowers

An advocacy 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.

## 2) Ethics Code of Public Servants

According to the KICAC ACT, , the public servants of Korea must follow ethics code as follows (kicac act, 2001): (1) 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.

(2) 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

(3) 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 .

(4) 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 BAI does not have powers of investigation nor of jurisdiction even though it can charge, and request punishment. With this entire backdrop the work of the BAI against corruption is faced with limitations.

In spite of the inspection of the performance of government operations and duties of government officials, the BAI was limited to ex post facto measures rather than preventive ones. To be able to investigate the entire range of corruption, the BAI first needs to be strengthened in terms of human resources. It is doubtful whether the BAI

staff of only 850 can cover all the audits and inspections of all the public officials in Korea. Kim Young Sam's Administration have intended to revise the laws regarding the BAI, but they did too little. Realistic institutions should be introduced.

We suggest several ways to create a stronger BAI -

1. the BAI needs to be reorganized and enlarged. Currently it has only one division for inspection of performance of government operations and duties of government officials. It is short-staffed too. The current level of 'inspector', which corresponds to a deputy minister, should be upgraded to the level of minister. And to collect information secretly about the corrupt officials, a new task force needs to be installed in the BAI something like the Performance Inspection Intelligence.
2. to revise the laws about the BAI the responsibilities and rights regarding the inspection of the governmental works need to be redefined in greater detail. Integration of all the separate inspection bodies in each administrative system at all levels should also be considered. A system for the dispatching of inspectors from the BAI to each governmental body needs to be examined. The BAI should be able to have its branches spread all over the local provinces.
3. 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 to cope only with the 'side works', not the main part.
4. scientific research and analysis should be added to the workflow of the BAI so as to derive better the direction of inspection policies.

It is quite important to evaluate the BAI in a systematic way to search for better implementation of its policies. In addition, it can be debated as to 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 thus the Constitution and/or the laws for the BAI need to be reconsidered to determine its independence. (T.Kim,2003)

## 5. Strategies and efforts to combat corruption in Korea

The honest national leaders who have lived in the Asian countries generally state something like 'the immoral and unethical behavior in the public service is one of the most serious problems that obstructs national and democratic development' (Gould, 1983).

The implementation and operationalization of efficient anti-corruption strategies are significant and effective. In particular, considering the causes of painful changes in previous political regimes and their failures to combat corruption, we may point out clearly that the need for integrated strategies for controlling corruption in Korea is urgent. However, a one-time campaign has been seen to have an extremely limited impact on the level of corruption in a given polity (Theobald,1990). That is, we need a sustainable and integrated strategy for controlling corruption. These strategies need to be dynamic and workable in order to attain the ultimate goal.

Ethical strategies towards administrative ethics, what should be the educational purpose and anticipated outcome of in-service ethics training-adherence to external controls or development of internal controls? The response to this question parallels the classic distinctions in organization theory between bureaucratic and democratic organizations and theory X versus Y management styles (Macgregor,1957). In the former, it is obvious that the nature of human beings is viewed with suspicion and thus, external structure and control must ensure that the desired behavior is attained. In the latter, the assumption is that if individuals are properly educated they will develop the internal judgement to behave, not only properly, but exemplary. This dichotomy concerning basic assumptions about human nature has pervaded the field of ethics training, as well as the profession, and fundamentally affects its educational purposes and objectives. (A.H-Ekins,2001)

John Rohr(1989) makes the distinction between "low road" and "high road" ethics and criticizes both. The first is dubbed "low road" because it stresses exclusively adherence to formal rules. This type of ethics training focuses on exercises to teach participants what kinds of conduct are or are not permissible under departmental regulations. Rohr concludes that such an approach is hopelessly negative because it reduces ethics to staying out of trouble and reinforcing the trivial, while ignoring the morally significant dimensions of public service.

The second approach to ethics education Rohr terms "high road," (because it stresses social equity) which he tries to discount as either being too lofty or irrelevant to be the basis of administrative ethics. Social equity, which has its origins in the political philosophy associated with the 'new public administration,' is too demanding to be a part of ethics training (Marini,1971). It is unrealistic to expect that public managers can ground themselves in the rigors of philosophy, when their focus is professional development. (A.H-Ekins,2001)

Table3-1 Typology of Ethics training Models in the Public Sector

Factor	Compliance	integrity	fusion	Integration
focus	Individual	Individual	Individual	Individual organizational
trait	Legal	Normative	Both	Both but more normative
outcome	Legally correct behavior	Ethically right conduct	Both	Both but more ethical idealism
content	Ethics, laws,rule and regulation	Ethical standard & decision making progresss	Both	Both but more ethical standards &decision making progresss
learning methods	Pedagogical	andragogical	both	Both but more andragogical

Source : A.H.Elkins, "Ethics in service Training",Handbook of Administrative Ethics Marcel Dekker,2001

Table 3-1 shows how these approaches can best be understood as points on a continuum ranging from a legalistic, microview of ethics training to a normative-reeducative, microview of ethics training. The content of training entails a knowledge of ethics laws and agency rules and regulations. The dominant learning style is pedagogical because for the most part legal knowledge is imparted to participants from a trained expert, usually a lawyer.

Some plausible anti-corruption strategies are noted as follows -

- 1) taking the causes of the failures of past regimes into consideration, the current Korean administration is aggressively pursuing comprehensive and systematic corruption prevention policies in cooperation with the public and business through basic strategies -

Promotion of administrative reforms in corruption-prone areas

Establishment of anti-corruption infrastructure

Establishment of code of conduct

Expansion of citizen participation in administration and anti-corruption activities

Building public support for anti-corruption programme

Systemic implementation and enforcement of anti-corruption policies and programs

#### IV. CONCLUSIONS

Ethics may also be relevant to different dilemmas of judgement that arise in the administrative sphere. Responsible conduct that draws for inspiration on personal morality, for example, may be more appropriate in those areas that involve individual conscience most intimately and where the individual officials is the cause of wrong: lying, deception, and other personal misdeeds. (J.P. Burke, 2001) So, a proper understanding of administrative ethics must encompass not only a right definition of its controlling corruption but knowledge of the prudence and moral compromise necessary to its effective and proper application. That is why we need to carefully observe the reality of corruption, and seek an effective ethical strategy. As mentioned earlier, Korea has struggled with their own strategies for moral good governance. One of the main reasons why the corruption is not eradicated in Korea is that without any ethical policy for anti-corruption there were just shocking one-time counter measure events. We have found there was very important real code of conduct, a ethical working linkage handling the anti-corruption drive, which led to a hegemony struggle among the relevant organizations. Now, with such problems in mind, the Korean Government and KICAC should seek for a comprehensive and ethical approach in dealing with corruption problems and consider the successful cases of other western countries.

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