

SGI Sustainable Governance Indicators 2011

South Korea report

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Executive Summary

In March 2008, the new conservative president, Lee Myung-bak, took office after winning the presidential elections in a landslide victory. Two months later, his conservative Grand National Party won the majority of seats in the National Assembly. In combination with other conservative parties, there is now a clear conservative majority that makes it much easier for the government to implement its policies than was the case for Lee's predecessor, Roh Moo-hyun (2003 – 2008), who lacked or had only unstable majorities.

During his election campaign, Lee made dramatic promises to undo all regulations enacted during the “the lost decade of leftist rule.” However, changes have thus far been incremental.

Among the Lee administration's strong points have been the handling of the global economic and financial crisis. After an initially slow response, the government introduced a substantial fiscal stimulus package equivalent to 6.1% of GDP, the OECD's largest fiscal stimulus package relative to the size of the local economy. The government was also successful in negotiating a dollar swap agreement with the United States, which restored foreign investors' confidence and arrested the massive outflow of capital from Korea during the financial panic. Korea benefited from relatively strict financial regulations for mortgages and the presence of risk-averse banks that retained debt on their books stemming from the financial crisis of 1997 – 1998. The government prevented the bursting of the domestic real estate bubble in Korea, although inflated real estate prices remain a major potential source of instability. Finally, pragmatic currency policies that allowed a dramatic depreciation of the Korean currency helped Korean exports, playing the most important role in the nation's recovery.

Since the crisis, “green growth” has taken prime place as one of the government's new slogans, and President Lee can be credited for shifting attention to environmental issues that had long played no role in Korean politics. Aside from goals such as support for environmentally friendly technology, this drive also includes issues such as the expansion of nuclear energy and huge construction projects such as river restoration and dams.

President Lee has also formulated the goal of “Kukgiok” (literally, a country with a good character), aiming to promote Korea's reputation and soft power in the world by hosting international events such as the G-20 meeting in November 2010, and by increasing spending for development assistance. He has continued the free-trading policies of his predecessor, seeking in particular to sign trade agreements with

the United States and the European Union in order to secure export markets for Korean products, and embarked on a foreign policy initiative aimed at securing the supply of natural resources for the resource-poor Korea. However, the country's relationship with North Korea deteriorated dramatically as the Lee administration reduced aid to the North, while the North tested long-range missiles and even conducted a nuclear test in 2009.

Lee's governance style is usually compared by his supporters to that of a corporate chief executive officer, while being deemed authoritarian by his opponents. His decisiveness seems to resonate well with Koreans. Critics, however, point out that his administration is unwilling to acknowledge criticism unless it becomes overwhelming, as during the protests against U.S. beef imports. He is also criticized for trying to suppress opposition, for example by influencing the personnel policies at public broadcasting companies, and by changing the law to allow (conservative) newspapers and other corporations to expand into the broadcasting sector.

The suicide of former President Roh on February 25, 2009, amid investigations of corruption against him and his family, raised questions about the independence of the judiciary and further aggravated the hostility between governing and opposition party. The opposition accused the government of using the prosecutor's office to discredit Roh and destroy the opposition with unproven allegations.

The Lee administration is often credited for streamlining the bureaucratic system by merging and sometimes downsizing ministries and government agencies. These policies of "advancement" (Seonjinwha) have the goal of building a smaller but more effective public sector, which is modeled after the management of a private company and impedes private business initiative as little as possible. However, there are already some indications that this downsizing strategy is running into difficulties. For example, after the disastrous handling of the protests against the import of U.S. beef in 2008, Lee reinstated the position of senior officer for public relations in the Blue House (South Korea's executive office), one of the positions he had abolished. The administration has also been heavily criticized for its reaction to the sinking of the Korean Navy ship Cheonan in March 2010.

Civil society organizations have lost significant influence over the last two years, a trend that has contributed to an erosion of democratic quality. Democratic processes have been weakened, under the justification that pro-growth policies must be quickly and efficiently implemented. Political discussions and civil society consultations have taken a back seat as the government has dramatically cut spending and abandoned consultations with NGOs. The government

is particularly hostile towards labor unions.

Strategic Outlook

In the years ahead, South Korea faces a number of more or less urgent challenges. The biggest challenge is the further consolidation and deepening of democracy. While formal democratic institutions in Korea are relatively stable, the necessary expansion of civil and political rights has taken a back seat in the last two years. The current president, Lee Myung-bak, shows little restraint in using the excessive executive powers yielded to the Korean president by the constitution. In this context, it seems of utmost importance to strengthen the political parties and the party system. Similarly, the Korean government has to be careful not to deteriorate from being simply business friendly into a “chaebol republic,” in which policies are designed to suit a few large business conglomerates.

The increasing influence of the executive over public broadcasters is worrisome, as are regulations that require resident registration numbers to be posted on the Internet. Legitimate concerns about the low level and sometimes even defamatory character of political discussions should not be countered by defamation suits, but rather by improving democratic education in schools, universities and throughout the society.

A second major issue concerns economic policies. While the country’s crisis-management strategy has successfully stabilized Korea in the short run, it creates challenges for the future. The recovery has been driven by exports and government spending, making a quick exit strategy problematic. Higher interest rates and a balanced budget could push Korea back into recession. Higher interest rates would also accelerate the appreciation of the Korean currency, undermining export competitiveness. On the other hand, loose monetary and fiscal policies would certainly further inflate asset bubbles, particularly in the real estate sector. Two options are thus available. First, Korea could continue its expansive monetary and fiscal policies, while strengthening the regulation of financial and real estate markets in order to deflate asset price bubbles. Second, Korea could tighten monetary and fiscal policies, and implement controls on capital inflow that prevent further appreciation of the won and a foreign-capital-driven inflation of stock prices.

The crisis recovery strategy has also left the economy’s structural problems untouched, including the oversized construction sector (the OECD’s second largest as a share of GDP , trailing only Spain) and the dependence on large business conglomerates that often earn monopoly rents in the domestic market. While the chaebol system

has been quite successful in rapid adoption of new products and technologies, it lacks the capacity for the radical innovation that is often performed by small companies. With competition from China growing both in labor-intensive and capital-intensive production sectors, the chaebol economy will run into problems.

Third, environmental issues have finally entered the political mainstream, with the government heavily promoting its “green growth strategy.” In this regard, the government should clarify the contradictions between the need for sustainable development and the focus on quantitative growth seen, for example, in the “747 vision” economic plan. In addition, the government should avoid using the green-growth label to greenwash environmentally controversial projects such as real estate developments in green belt areas. Moreover, the government should change the regulatory framework to provide incentives for energy conservation and environmentally friendly behavior. Finally, the international community should pressure Korea to accept its status as a fully developed G-20 country, which would imply a move into Annex 1 of the Kyoto protocol and a commitment to reducing CO2 emissions.

Fourth, the Korean government needs to address the relatively low labor-market participation rates, particularly among women. This will require improving the public infrastructure in such a way as to allow women to combine parenthood and work. There is also an urgent need for the government to address the problems of the working poor and of precarious working conditions. The government should make public housing available and help to strengthen the market for rental apartments. In order to reduce the heavy burden of education costs, the government should increase public spending for education, enact clear rules for private education institutions and provide more grants to university students.

Fifth and last, Korea is still searching for its new role in international politics. For example, the country has not yet established a clear agenda for its G-20 participation. Korea has voiced suspicion about some of the core projects of the G-20, such as the international coordination of financial regulation and the reduction of trade surpluses (and deficits). To date, the Korean government has seemed simply to enjoy the country’s increasing reputation in the world; however, it should open more vigorous discussions with societal actors and academics on the kind of contribution Korea might make in solving global problems such as financial market instability, global imbalances and climate change.

Korea has made remarkable progress in the field of development cooperation, but the quality of its development assistance remains low. An outdated concept of development aid (as opposed to

cooperation) prevails, and much of the country's aid remains in the form of tied aid. Finally, the government should abandon its ideological approach to North Korea, and adopt more pragmatic policies. There is no doubt that North Korea has a militaristic and dictatorial regime that shows no respect for human rights and is a danger to world peace. However, the policy of "being tough" on North Korea and reducing humanitarian aid has only led to further deterioration in the relationship between the two states.

Status Index

I. Status of democracy

Electoral process

Candidacy
procedures
Score: 8

All election affairs are managed by the National Election Commission (NEC), an independent constitutional organ. Registration of candidates and parties for national, regional and local levels is done in a free and transparent manner. Individual candidates without party affiliation are allowed to participate in national (excluding party lists), regional and local elections. Candidates can be nominated by political parties or by registered electors. Although the National Security Law (NSL) allows state authorities to block registration of “left-wing,” pro-North Korean parties and candidates, there is no evidence that this had a real impact in the 2008 parliamentary elections or the 2010 local elections. However, deposit requirements for persons applying as candidates are relatively high, as are ages of eligibility for office.

Citation:

Bertelsmann Transformation Index 2010, Bertelsmann Foundation, www.bertelsmann-transformation-index.

Public Officials Election Act, Act No. 9974, Jan. 25, 2010

Freedom House, Freedom in the World 2009, New York: Freedom House

Media access
Score: 6

Candidates’ ease of access to the media depends on the type of media. The print media in Korea remains dominated by three big conservative newspapers with a clear political bias. However, smaller newspapers that support the opposition do exist. Access to TV and radio is more equal. Online citizens’ media has played an important role in Korean politics and in the nation’s broader Internet culture in recent years. The immensely controversial NSL also applies to online media. Nevertheless, the country’s role as one of the world’s most Internet-active societies, with almost universal access to the Internet and an increasing shift from the use of print media to online media (especially among the younger generations), the obvious conservative bias of mainstream newspapers is less and less relevant as a factor in assessing fair media access during election campaigns.

However, one particular shortcoming of free media access is the determination by the election watchdog to restrict political discussion of “hot issues” before elections. The NEC has justified this policy as a necessary means to “ensure a fair election.” For example, in April 2010, the NEC banned political parties and social organizations from discussing “hot issues” or making campaign pledges about them ahead of the local elections. Hot issues, as the NEC defined this category, went so far as to include (for example) the controversy over providing free school meals for all public school students. In addition, in 2010 the election watchdog restricted the use of the Twitter microblogging network for campaign purposes in the days before local voting took place.

Citation:

S.Korea lawmaker challenges election limits on Twitter use, Business Report online, March 25, 2010, accessed May 25, 2010.

Open Net Initiative, South Korea, report issued May, 10, 2007, <http://opennet.net/research/profiles/south-korea>, accessed April 20, 2010.

Voting and
registrations rights
Score: 9

All adult citizens 19 years of age or older are eligible to vote, and voter registration is fair and effective. Citizens can appeal to the National Election Commission and the courts if they feel they have been discriminated against. Citizens who are currently serving prison time, certain violators of election laws and those who committed specified crimes while holding a public office are excluded from this right.

On February 5, 2009, following a request by the Constitutional Court, the National Assembly changed the Public Official Election Act to allow overseas citizens over 19 years of age to vote in presidential elections and in National Assembly general elections. Overseas citizens are defined as Korean citizens residing in foreign countries who are permanent residents or short-term visitors.

Citation:

National Election Commission, Right to Vote and Eligibility for Election, http://www.nec.go.kr/nec_2009/english/

National Election Commission, NEWS No.7,

Party financing
Score: 4

Party and campaign financing is a controversial topic in Korea. Due to the relatively low rate of membership in political parties, candidates in elections have to spend huge amounts of money to hire supporters and place advertisements. Parties receive public subsidies according to their share of the vote in the last-held elections. However, a larger amount of campaign financing comes from private donations. Although election laws strictly regulate political contributions, efforts to make the political funding process more transparent have met with

only limited success. Many cases of violations of the political funds law are revealed after almost every election, and many elected officials or parliamentarians have lost their office due to violations. The heavy penalties associated with breaking the political funds law seem to have had only limited effect on the actual behavior of politicians. Breaking the election law seems to carry little stigma, as can be seen in the case of current President Lee, who lost his parliamentary seat due to an election law violation in 1996 but was elected to be Seoul's mayor in 2002 and president in 2007. While no slush-fund scandals of the type seen in the 1990s have recently emerged, party finance reform remains one of the most pressing issues in Korean party politics

Access to information

Media freedom
Score: 4

In the 2009 Press Freedom Index, published by Reporters Without Borders, Korea placed 69 out of 175 countries. This represented a fall of 22 places compared to 2008, and was one of the lowest rankings among OECD countries. Korea was also put on the list of "countries under surveillance." The report criticizes the prosecution of journalists from the MBC program PD Diary. Journalists were accused of exaggerating the danger of mad cow disease, an issue that triggered massive protests against the import of U.S. beef in 2008. The makers of the program were acquitted of prosecutors' accusation that they had "defamed government officials and obstructed businesses involved in importing U.S. beef."

Another case criticized by the report is the arrest of Internet blogger "Minerva" (whose real name was Park Dae-sung), "on the grounds that he affected 'foreign exchange markets' and the 'nation's credibility' through his posts on the financial crisis in a discussion forum." He too was acquitted of the charges against him.

In April 2009, South Korea's Act on the Promotion of Information and Communications Network Utilization and User Protection was amended. The amendment requires all websites with at least 100,000 (previously 300,000) visitors per day to identify their users by their real names, a change that was criticized as a limit on the freedom of speech.

The government was also accused of replacing or influencing the replacement of chief executives of several major public broadcasters and media companies, including the Korean Broadcasting System (KBS), Korean Broadcasting Advertising Corporation, Arirang TV, Sky Life and Yonhap Television Network (YTN). Some of the new appointees are believed to be supporters of the government. Amnesty International also reported that "protests against the appointment of

the new YTN President Ku Bon-hong, a former aide to President Lee Myung-bak, resulted in Ku Bon-hong suing 12 trade union journalists and firing six journalists for “interfering with business.” There are also accusations that the early replacement of the president of broadcaster MBC in February 2010 was politically motivated. MBC labor unions went on strike in early April 2010 to protest the change.

Citation:

Joong Ang Daily, 21 January and 20 February 2010.

The Hankoreh 10 April 2009

Reporters without Borders, Report South Korea, <http://en.rsf.org/report-south-korea,59.html>

Amnesty International Korea Report 2009, Herald 6 April 2010

Media pluralism
Score: 5

The quality of media pluralism depends on the type of media. The print media is dominated by three major newspapers: Chosun Ilbo, Donga Ilbo and Joong Ang Ilbo. The combined market share of these three outlets in 2006 was 62.3%. Smaller alternative newspapers also exist. The major newspapers are politically conservative and business friendly, partly because they depend to a very large degree on advertising revenues. For example, major newspapers and websites did not review or accept advertisements for the bestselling book of former Samsung chief counsel Kim Yong-chul, “Think Samsung,” in which he accuses Samsung and Samsung Electronic Chairman Lee Kun-hee of corruption. However, as newspaper subscription rates continue to decline – dropping by almost 50% between 1996 and 2006 alone – the Internet has increasingly become one of, if not the most important source of information for South Koreans, especially among younger generations. There is more pluralism in the broadcasting sector, due to the mix of public and private media. However, the diversity of political opinions in this arena is threatened by government influence over broadcasters’ personnel policies.

Citation:

Chung, Jongpil, Comparing Online Activities in China and South Korea: The internet and the political regime, Asian Survey, September/October 2008, Vol. 48, No. 5, Pages 727–751.

Access to gvmt.
information
Score: 5

The Act on Disclosure of Information by Public Agencies regulates the access to government information. The Korea Public Information Disclosure System makes available all documents described by the act. Information can also be accessed online at the Online Data Release System. If a person makes a request for the disclosure of information, the agency in possession of the information must make a decision on the petition within 15 days. Excluded from disclosure are all documents related to national security. While this is a reasonable

level of exception in theory, “national security” is often interpreted in Korea to have a very wide scope.

Despite the sound legal regulations for information disclosure, there are many complaints about the policy’s practical implementation. Freedominfo.org reports that rejections of information disclosure requests without proper explanation are common. Complaints and litigation following a failure to disclose information are possible.

In a recent survey, Korean newspaper Hankyoreh and the Open Information Center for a Transparent Society found that each of 20 surveyed public institutions failed to disclose relevant information about their activities and a list of available information on their websites, even though required to do so by law.

Citation:

Korea Public Information Disclosure System, https://www.open.go.kr/pa/html/eng_main.htm

The Hankyoreh, 3 March 2010, <http://english.hani.co.kr/arti/engl>

Civil rights

Civil rights
Score: 5

Basic civil rights are protected by the constitution. Although courts have been reasonably effective in protecting civil rights, and a Human Rights Commission was established in 2001, a number of problems remain. Moreover, observers tend to agree that the human and civil rights situation has worsened somewhat in the 2008 – 2010 period. The National Security Law remains in place, outlawing activities that could be interpreted as “benefiting or praising” North Korea. In August 2008, members of the Socialist Workers League of Korea, including an economics professor at Yonsei University, were arrested without an arrest warrant for “forming an anti-state group.” Applications for warrants were turned down by the Seoul Central District Court a day after the arrest.

Among the most serious issues are the inadequate rights enjoyed by migrant workers, the widespread physical abuse of sex workers, the imprisonment of conscientious objectors, and the continuing use of the NSL to detain and imprison individuals believed to be sympathetic to North Korea’s communist ideology. On a more positive note, a moratorium on executions announced in late 1997 has remained in place. However, the attempt to abolish the death penalty altogether failed in parliament in February 2010.

Excessive use of police force is another subject of often-voiced complaint, as during the protests against U.S. beef imports, or the “Yongsan disaster” in which six people were killed during a clash between riot police and tenants refusing relocation during a construction project.

Citation:

Amnesty International, Report on Korea, <http://www.amnesty.org/en/region/south-korea/report-2009>.

National Human Rights Commission Act, Act No. 6481, May 24, 2001 (Established)

Korea Times, 30 December 2009.

Bertelsmann Stiftung, “South Korea,” Bertelsmann Transformation Index 2010, text of the press statement delivered by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue, after the conclusion of his visit to South Korea, May 17, 2010, Office of the United Nations High Commissioner for Human Rights,

Political liberties
Score: 5

Political liberties are protected by the constitution, but infringements do take place. The freedoms of opinion and of the press are constitutionally guaranteed, but recent illiberal trends give cause for concern (see also Media Freedom). The freedoms of association and assembly are respected in principle. However, South Korea has not signed four of the basic conventions of the International Labor Organization, including two on the freedom of assembly. The government has repeatedly denied selected groups of employees – most recently migrant workers – the right to form unions. It is very difficult to call a strike that would be legal by official definitions. Demonstrations also require approval, which can be hard to come by as anti-government protestors learned in spring and early summer 2008.

Indeed, demonstrations are often declared to be illegal because they disrupt traffic or business. According to Amnesty International, the use of force by police at the candlelight protests against the import of U.S. beef was excessive.

Labor unions are allowed to operate in the private sector, but remain restricted in the public sector. However, labor union members are frequently imprisoned and fined for organizing “illegal strikes” or for “obstruction of business.” Businesses also sue labor unions for compensation for “lost profits” during strikes. On May 23, 2010, 183 teachers (most of them members of the Korean Teachers and Education Workers Union, KTU) were dismissed by the Ministry of Education, Science and Technology for allegedly joining the Democratic Labor Party (DLP), an opposition party, based on the fact

that the individuals made private donations to the DLP. The authorities interpreted these contributions as membership fees, despite the protests of the individuals concerned to the contrary.

Citation:

Bertelsmann Stiftung, "South Korea," Bertelsmann Transformation Index 2010, www.bertelsmann-transformation-index.de

"South Korea: Arbitrary dismissal of 183 teachers forces hunger strike," Education International, <http://www.ei-ie.org/en/news/show.php?id=1266&theme=rights&country=korea>

Freedom House, Freedom in the World 2010, New York: Freedom House (forthcoming).

Non-discrimination
Score: 5

Discrimination is frequent in Korea. Women remain underrepresented in almost all important fields in Korea. The wage gap between men and women is on average 38%, the biggest such gap in the OECD. The unequal treatment of Korean women is reflected in various UNDP data compilations. While South Korea ranked 25th in the UNDP's 2006 Human Development Index (HDI), and 26th in the 2006 Gender-Related Development Index (GDI), the country ranked only 68th (out of 108 countries) with respect to the Gender Empowerment Measure (GEM), which focuses on women's roles in economic and political life. Discrimination against gay and lesbians remains pervasive. Discrimination against irregular workers and migrant workers is also frequent. In addition to discrimination at the workplace, many migrant workers have to submit to an HIV test in order to get a work visa. Discrimination against people with handicaps has improved, although barrier-free entrances to buildings and public transportation services remain rare.

The government has tried to address discrimination based on gender and other characteristics, but with little effect. The establishment of the National Human Rights Commission (NHRC) in 2001 under the presidency of Nobel Peace Prize laureate Kim Dae-jung was an important step, but this organization is not part of the executive branch, and has no direct enforcement authority. The enactment of the Disability Discrimination Act (DDA) in April 2008 constituted another important step toward better protection against discrimination. According to official data from the NHRC, a total of 1,390 cases pertaining to disability discrimination have been filed with the commission since the DDA took force, accounting for up to 50% of the total number of discrimination cases filed. The number has increased

dramatically compared to the 14% share of previous years, as the DDA was expected to be relatively strictly enforced.

Citation:

OECD, Gender Brief, March 2010, <http://www.oecd.org/dataoecd/23/31/44720649.pdf>

The Disability Discrimination Act Marks the 2nd Anniversary [2010-04-30], The National Human Rights Commission of Korea, http://www.humanrights.go.kr/english/activities/view_01.jsp

Rule of law

Legal certainty
Score: 7

There have been few changes in terms of legal certainty in the last two years, and signs of both improvement and deterioration can be found. On the one hand, there are fewer complaints from investors and businesses about government intervention, a trend that reflects the government's generally business-friendly attitude.

On the other hand, the unpredictability of prosecutors' activities remains a problem. Unlike judges, prosecutors are not independent, and there have been cases when they have used their power to harass the political opposition even though independent courts later found accusations to be groundless. In South Korea's "prosecutorial judicial system" this is particularly important, because it is the public prosecutor who initiates legal action. The most prominent case in recent years, in which critics argued that the prosecutor's office acted as a "political weapon" of the executive branch, was the case against former President Roh Moo-hyun. Roh committed suicide in March 2009, deeply shamed by accusations of corruption, following a 13-hour session of questioning by state prosecutors. Prosecutors never provided proof for their accusations.

Citation:

Joong Ang Daily 9 April 2010

Judicial review
Score: 8

The South Korean judiciary is highly professionalized and fairly independent, though not totally free from governmental pressure. In particular, state prosecutors are from time to time ordered to launch investigations (especially into tax matters) aimed at intimidating political foes or other actors not toeing the line. The Constitutional Court has underlined its independence through a number of remarkable cases in which courts have ruled against the government. For example, a court acquitted the blogger "Minerva" (see Media Freedom), who was accused by the government of damaging the nation's credibility and destabilizing the currency market. In another

case, the makers of MBC's PD Diary television program, which led to the protests against U.S. beef imports, were found not guilty of defamation. Courts have also thrown out many (but not all) of the cases against protesters accused of organizing illegal protests. However, there have also been cases that call the independence of the courts into question. For example, Korean Supreme Court Justice Shin Young-chul used his position to influence the decisions of subordinate courts during the trials against protesters who had demonstrated against the import of U.S. beef in 2008. Justice Shin was referred to the court's ethics commission, but did not step down. Under South Korea's version of centralized constitutional review, the Constitutional Court is the only body with the power to declare a legal norm unconstitutional. However, in cases having to do with ministerial and government decrees, and with regard to the decisions of lower courts, the Supreme Court has also demanded the ability to rule on acts' constitutionality. This has several times contributed to legal battles between the Constitutional and Supreme courts. Nevertheless, the Constitutional Court has become a very effective guardian of the constitution since its establishment in 1989.

In February 2010, by a 5-4 vote, South Korea's Constitutional Court upheld the constitutionality of the death penalty. Still, the court cannot be considered to hold an exclusively conservative judicial ideology or values, but rather aims to decide cases based on the merits. This was demonstrated in the court's ruling of May 27, 2010, in which it stated that "human embryos left over from fertility treatment are not life forms and can be used for research or destroyed." Strongly criticized by many Christian churches and denominations, this ruling saved South Korea's thriving stem-cell research sector.

Citation:

Korea Times 24 September 2009

Joong Ang Daily 2 April 2009

Korea Times 20 April 2009

Korea Times 20 January 2010

Croissant, Aurel (2010) Provisions, Practices and Performances of Constitutional Review in Democratizing East Asia, in: *The Pacific Review* (forthcoming).

Kim, J. (2009) 'Government Reform, Judicialization, and the Development of Public Law in the Republic of Korea', in T. Ginsburg and A. H. Y. Chen (eds) *Administrative Law and Governance in Asia: Comparative Perspectives*, New York: Routledge, pp. 101-127.

'Constitutional Court upholds the death penalty', *The Hankyoreh*, 27 February 2010, <http://asiadeathpenalty.blogspot.com/2010/02/south-korea-news-report-on.html>

'Embryos are not 'life forms,' South Korea court rules', *AFP*, May 27, 2010.

Score: 5

selected by the president, three by the National Assembly and three by the judiciary, and all are appointed by the president. By custom, the opposition nominates one of the three justices appointed by the National Assembly. The head of the court is chosen by the president, with the consent of the National Assembly. Justices serve renewable terms of six years (except for the chief justice). The process is formally transparent and adequately covered by public media, although it seems fair to say that judicial appointments are not a top issue of public attention in South Korea.

Courts below the Supreme Court are staffed by the national judiciary. Judges throughout the system must pass a rigorous training system including a two-year program and two-year apprenticeship. The Judicial Research and Training Institute performs all judicial training; only those who have passed the National Judicial Examination may receive appointments.

Citation:

Article 111 of the Korean Constitution

Croissant, Aurel (2010) Provisions, Practices and Performances of Constitutional Review in Democratizing East Asia, in: *The Pacific Review* (forthcoming).

Corruption
prevention
Score: 5

Corruption remains a major problem in Korea, and government attempts to curb the problem are seen as mostly ineffective by the population. Korea ranked 39th out of 180 countries in the 2009 Transparency International Corruption Perception Index, up one spot from 2008. It ranked 14th out of 22 countries in the Transparency International Bribe Payers Index of 2008.

Vigilant civil society organizations regularly conduct surveys of how parliamentarians fulfill their duties. "Blacklisted" candidates running for office face problems in parliamentary elections. Though far from perfect, the blacklisting system has helped to increase voters' awareness of problems. However, lawmakers who have been convicted for illegal fundraising and other illicit activities sometimes benefit from the presidential amnesties that are granted every year – as was the case in August 2009, when President Lee pardoned 341,000 executives, politicians and bureaucrats convicted of crimes that included fraud and embezzlement. In December 2009, President Lee pardoned Samsung Electronics Chairman Lee Kun-hee, who had been convicted of tax evasion.

Transparency International has also criticized the Lee administration's business-friendly policies for undermining anti-corruption measures. On February 29, 2008, the Anti-Corruption and Civil Rights Commission (ACRC) was launched by the merger of the Ombudsman of Korea, the Korea Independent Commission against Corruption and the Administrative

Appeals Commission. However, ACRC commissioners are entirely appointed by the president, a provision that critics argue undermines its independence.

Citation:

Korea Times 24 March 2010

Transparency International, Corruption Perception Index 2009, http://www.transparency.org/policy_research/surveys_indices/cpi/2009

Transparency International, Bribe Payers Index 2008, http://www.transparency.org/policy_research/surveys_indices/bpi/bpi_2008

Transparency International, Global Corruption Barometer 2007, http://www.transparency.org/policy_research/surveys_indices/gcb/2007

Act on Anti-Corruption and the Foundation of the Anti-Corruption & Civil Rights Commission, 2008, http://www.acrc.go.kr/eng_index.html

Korea Times, Korea Ranks 39th in Global Corruption Index, 11-17-2009, http://www.koreatimes.co.kr/www/news/nation/2010/05/117_55667.html

II. Policy-specific performance

A Economy

Economy

Economic policy
Score: 7

President Lee Myung-bak was elected as an “economic” or “CEO president,” which was a stark difference from previous elections in which economic policies played little role. According to OECD data, South Korea showed one of the OECD group’s strongest recoveries from the 2008 global recession, laying the foundation for solid subsequent growth even if cuts are made in government spending.

At the core of Lee’s economic revitalization policy was his so-called Korea 747 plan – to ensure 7% economic growth during his term, to raise Korea’s per capita income to \$40,000 and make Korea the world’s seventh-largest economy. Moreover, a major strategic change under the Lee administration has been to foster innovation in the “green economy.” Thus, the government is supporting innovations in fields it considers green, such as river restoration, solar energy, LED lighting, electric vehicles and nuclear power.

Lee’s economic policies can be described as business friendly, with a focus on large companies and economic stimulus through construction projects. The government has also stimulated exports by allowing a dramatic devaluation of the Korean currency against the dollar, totaling almost 40% between early 2008 and early 2009. Ten years after the Asian financial crisis, in 2008 global financial crisis and

the dramatic devaluation of the Korean won almost led to a new debt crisis. But while the government was initially hesitant, it quickly followed the lead of international attempts to provide liquidity to the financial system, implementing a large stimulus package of 6.1% of GDP in 2008, the largest such stimulus in the OECD.

Most certainly, the government will retain its expansionary economic policy stance for the time being, as it seeks to support the recovery. With respect to macroeconomic policy, inflation and job growth are likely to be targets of renewed focus, while the currency's competitiveness could get relatively less priority due to concerns about its inflationary implications.

The government has done little to arrest real-estate speculation or high real-estate prices, both of which remain sources of substantial concern in Korea. The focus on an export-oriented and construction-driven recovery might also be risky. This strategy makes Korea vulnerable to protectionist backlashes, and prevents an adjustment of the country's oversized construction sector. To counter these threats, the Korean government has increased efforts to sign trade agreements, particularly with the European Union and the United States.

Citation:

OECD, Employment Outlook 2009 – How does KOREA compare?
<http://www.oecd.org/dataoecd/62/34/43707086.pdf>

Bloomberg Businessweek, South Korea's Economy Expanded More Than Estimated, June 3, 2010, <http://www.businessweek.com/news/2010-06-03/south-korea-s-economy-expanded-more-than-estimated-update1-.html>

Labor market

Labor market policy
Score: 6

Labor market policies have successfully kept the unemployment rate at about half the OECD average. The jobless rate reached 4% in mid-2009, up one percentage point from a year earlier. The increase in unemployment was also lower during the global economic crisis than in most other OECD countries. Youth unemployment remains relatively high at 8.5%.

This comparatively good performance can be attributed to the effects of the largest fiscal stimulus package in the OECD, the country's export competitiveness due to massive currency devaluation, and corporatist arrangements that traded wage restraints for job security. On the other hand, labor market policies have been less successful in preventing the proliferation of precarious working conditions and irregular employment. This problem is particularly severe for young college graduates, who have been dubbed the "88 generation"

because they cannot get regular jobs, and their first irregular job or internship typically pays about 880,000 won (approximately \$800 dollars) a month. The government actively supports an internship program for college graduates, but it is doubtful whether these internships can open a path to regular employment. The rate of work-related accidents in Korea is also among the highest in the OECD, pointing to lax enforcement of security standards by the government. The overall employment rate in Korea also remains below the OECD average, due to low levels of employment among women and the lack of effectiveness of government measures designed to address this problem.

Citation:

OECD, Employment Outlook 2009 – How does KOREA compare?
<http://www.oecd.org/dataoecd/62/34/43707086.pdf>

Enterprises

Enterprise policy
Score: 6

Enterprise policies have been partly successful in achieving their objectives, as a wave of bankruptcies of large companies, as took place during the Asian financial crisis, has thus far been prevented. The large fiscal stimulus and the devaluation of the currency proved particularly beneficial to large companies with strong exports. On the other hand, small and medium-sized enterprises (SMEs) were struck very hard by the crisis, and bankruptcies were rampant. Thus, the already huge gap between big companies and small and medium-sized enterprises is further widening.

Since the mid-2000s, various administrations have attempted to facilitate productivity enhancements in the SME sector through the use of investment tax credits. In addition, generous personal and corporate income tax deductions were offered in an attempt to nurture the establishment of SMEs outside the Seoul metropolitan area, but without much success.

The government also uses the entry of foreign competitors to force domestic companies to innovate. For example, it waived telecom regulations to allow the Apple iPhone into the Korean market in early 2010, seeking to force Korean cell phone makers to improve their own smartphone technology. Still, despite strong efforts by the government, the oligopolistic structure of the Korean market renders the investment climate for foreign investors difficult.

Taxes

Tax policy
Score: 7

The Korean tax system is fairly effective in generating sufficient public revenues without weakening the competitive position of the national economy. Tax instruments are used to nurture FDI, R&D, and human resources development. Its main weakness, however, is equity.

Compared to other OECD countries, the tax burden in Korea is very low. As of 2009, tax revenue was about 20% of GDP (this rises to 27% after the inclusion of social security contributions). Tax revenue has been growing slowly, and is likely to increase farther in the future, as social security contributions have increased relatively fast since the middle of 1990 and will likely continue to do so.

In comparison with other OECD countries, Korea also has a low tax burden on labor income. The average tax wedge (average income tax plus employee and employer social security contributions minus cash transfers, as a percentage of total labor costs) was below the OECD average for all households in 2009.

As of 2009, there were 14 national taxes and 15 local taxes. Local tax represents about 20% of total tax revenue. Direct tax (personal income taxes (PIT) and corporate income taxes (CIT)) revenue share is about 40%; indirect taxes (especially VAT) are responsible for about 55% of national tax revenues. The share of total taxes accounted for by personal income taxes and social security contributions is the lowest among OECD countries, but Korea's corporate income tax share is among the highest. Distribution of the PIT tax burden in Korea is comparable to that in the United States. CIT payment is fairly concentrated, with about 1,000 companies (0.3% of the total) paying 75% of the country's total CIT.

Taxes raise revenues adequate to the government's needs, and do not impede competitiveness. Korea has one of the lowest tax rates in the OECD. Although taxes on business are relatively high compared to personal income taxes, they do not seem to reduce overall competitiveness. The strong reliance on the value added tax gives the tax system an inequitable, regressive nature, and lessens its ability to improve equity.

One of the major reasons for the weak income tax base is relatively high number of self-employed individuals, and the low levels of income tax paid by this group; another is the sizable income-tax deduction for wages and salaries. However, in the last two years, the Lee administration has further weakened the ability of the tax system to achieve equity by reducing progressive income taxes and real-estate taxes paid by the relatively wealthy. Taxes on problematic consumption items such as energy or cigarettes remain relatively low,

and the government has so far failed even to discuss an ecological tax reform.

Citation:

National Tax Service 2009 (Statistical yearbook of national tax), Korea.

OECD, 2006, Tax Administration in OECD and Selected Non-OECD Countries. Comparative Information Series.

Kim, Jyunghun, 2008: Tax policy in Korea: Recent changes and key issues, Seoul: Korea Institute of Public Finance, unpublished paper.

OECD 2009, Reforming the tax system in Korea to promote economic growth and cope with rapid population ageing, http://www.oecd.org/topicdocumentlist/0,3448,en_33873108_33873555_1_1_1_1_37427,00.html

Budgets

Budget policy
Score: 8

Korea's budget policies remain sound. It has among the OECD's lowest levels of public debt and public expenditure. In a recent report, the Korea Institute of Public Finance said Korea's debt ratio grew from 30.7% in late 2007 to 35.6% in 2009, but that this increase is forecast to slow and peak at 36.1% in 2010, before decreasing to 35.9% by 2013.

Nevertheless, the government has been remarkably pragmatic in abandoning what traditionally had been very conservative fiscal policies, implementing the OECD's largest fiscal stimulus in an attempt to sustain economic growth. The country's budgetary soundness was favorably assessed in the OECD's March report "Preparing Fiscal Consolidation." The actual balance of Korea's budget (expressed in terms of percentage of nominal/potential GDP) in 2009 stood at -1.8%, fourth-healthiest among OECD countries. The report also forecast the post-crisis budget balances of the 16 G-20 nations, and Korea was among the only countries expected to record a surplus in 2010 and 2011. On the other hand, the low overall government expenditure leaves room for doubt whether, amid a maturing economy and an aging society, the Korean government is prepared to take over more responsibility, particularly with respect to increasing spending for social security and education. The recent shift of government expenditure to construction projects might also create short-term growth at the expense of long-term development prospects.

Citation:

OECD 2010, Preparing fiscal consolidation, Paris, http://www.oecd.org/document/23/0,3343,en_2649_34595_44829143_1_1_1_1,00.html

OECD, OECD Economic Outlook No. 87, May 2010.

B Social affairs

Health care

Health policy
Score: 8

There were no major changes in the health care system during the period under review. Korea has a high-quality and inclusive medical system, and has experienced the OECD's highest increase in life expectancy (a rise of 27 years) as compared to 1960. This success was achieved despite the second-lowest ratio of doctors per capita ratio, and a nurse per capita ratio far below the OECD average, although this situation has improved in recent years. Health spending per person has grown significantly over the past decade, but remains lower than OECD average. The public sector provides slightly more than half of all health care funding.

The universal health insurance system has relatively low premiums but high copayments. Koreans can freely choose doctors, including service at most privately owned clinics, but the scope of coverage of medical procedures is narrower than in most European countries. High copayments have the problematic effect that access to medical services depends on personal wealth.

Citation:

OECD Health Data 2009 - Country notes Korea, <http://www.oecd.org/dataoecd/46/10/38979986.pdf>

Social inclusion

Social inclusion
policy
Score: 5

The gap between rich and poor has widened further during the last two years, and criticism of the government's lack of action on this issue is growing in strength. The Korean welfare system is not designed to reduce inequality, and even its capacity to prevent poverty is very limited given the very low level of social transfer payments. These small payments force unemployed individuals to accept any job offer, even if wages are much lower than in their previous employment. This explains why Korea has the highest share of working poor in the OECD. The welfare system also depends on family-based security, in which parents are willing to support their children even after completion of a university degree. In Korea, it is also common that the more well-off members of a group (colleagues, friends, high school alumni, etc.) invite less-fortunate members, so

that these individuals can continue to participate in social activities. However, in Korea's increasingly money- and consumption-oriented society, poverty is becoming a source of shame, which partly explains the low levels of life satisfaction in Korea.

In the past two years, the Lee administration has shown little enthusiasm for the previous government's plan to transform Korea into a modern welfare state. Rather, Lee has sought to solve social problems through high growth rates and job creation linked to public work programs and infrastructure projects. Furthermore, the recent massive influx of North Korean defectors from low social classes has made the issue of their integration into South Korea's workforce worrisome. Available data on the work integration of North Korean defectors casts a spotlight on this group's marginalization in the primary labor market, as well as on other indicators of their poor level of work integration.

Citation:

Bidet, Eric, 2009: Social Capital and Work Integration of Migrants: The Case of North Korean Defectors in South Korea, *Asian Perspective* 33(2), 2009

Families

Family policy
Score: 4

As with preceding governments, the Lee administration has not been very effective in enabling women to combine parenting with participation in the labor market. This can be seen in the country's low fertility rate as well as in women's low labor-market participation rate. The traditional Confucian family values that view women as mothers and housewives remain strongly influential. High housing prices and high costs of education are the most important factors in young couples' decision not to have children. In recent years, the government has been alarmed by the dramatic drop in fertility, and various policies are under way or under discussion; however, most policies adopted thus far have proved inadequate in helping women combine employment and parenthood. For example, the government is currently discussing the introduction of a child benefit system. There have also been more controversial reactions to the low fertility rate. For example, the government has started cracking down on abortions, which are illegal in South Korea but had been tolerated since the 1970s, when Korea was trying to bring down its birth rate.

Citation:

New York Times, 5 January 2010

Kim Sangmook, 2008, Women and family-friendly policies in the Korean government, *International Review of Administrative Sciences*, Vol. 74, No. 3, 463-476.

Pensions

Pension policy
Score: 6

The average age of Korea's population is rising much faster than is the case in many other OECD countries. The share of the population 65 years old or more will increase from 7% in 2000 to 37% in 2050. This relatively quick demographic shift is taking place in part because Korea has been very successful in reducing infant mortality rates and increasing life expectancy, while failing to maintain birth rates near the replacement rate. Since 1996, the fertility rate has dropped from 1.6 babies per woman, just below the OECD average, to less than 1.2 children per woman. Korea now has the lowest birth rate of any OECD country.

Old age remains a major source of poverty in Korea, as pension payments are low and most older people today lack coverage under a pension system that did not cover a large share of the working force until expansion of the program in 1999. The government has also failed to enforce mandatory participation in the system, and many employers fail to register their employees for participation. The pension system is currently fiscally sustainable and needs only small subsidies. This is because the pension system is organized in the form of a pension fund, and contributors currently far outnumber pension recipients. However, given the risks involved in pension funds, it is not clear what level of subsidies the fund will require once the contributors who have entered since 1999 retire. Three older and much smaller pension funds for government employees, military personnel and teachers are already running deficits and have to be subsidized by the government. Given the low fertility rate and the aging of Korea's society, the country's pension funds will almost certainly need more subsidies in the future.

Korea's pension funds also seem to be vulnerable to government interference. For example, in 2008 the government told the National Pension Fund to invest a larger share of its assets in Korean stocks, seeking to stabilize the stock market during the global financial crisis.

Integration

Integration policy
Score: 4

Since the 1990s, South Korea has transformed itself into a society that attracts immigrants rather than providing them for other nations. Driven by increasing demand for cheap labor, generational change and a shortage of women in rural areas, the number of foreign residents has increased considerably. As of March 2010, Korea was home to 870,636 registered overseas nationals, with 255,000 of these

individuals living in Seoul.

In August 2005, parliament passed the “Public Official Election Act,” a suffrage law that allowed foreign residents to vote in local elections alongside Korean citizens. South Korea currently remains the only Asian country which gives voting rights to noncitizens.

In recent years Korea has made it easier for migrants to receive permanent resident status and even citizenship, particularly for highly skilled migrants. To apply for Korean citizenship, an individual must have resided in Korea for more than five consecutive years, be legally an adult, have displayed good conduct, have the ability to support himself or herself on the basis of his or her own assets or skills (or be a dependent member of a family) and have basic knowledge befitting a Korean national (such as understanding of Korea’s language, customs and culture). In April 2010, the Korean parliament also passed a law that allows dual citizenship.

Another relatively serious integration issue concerns the societal exclusion experienced by the foreign-born wives of Korean men (often from China, Southeast and South Asia). This population has drastically increased in recent years (about 10% of all marriages in South Korea are international today, in the sense that either bride or groom is non-Korean), and often faces cultural discrimination. Furthermore, cultural, education and social policies have yet to adapt to the fact of increasing immigration levels.

While ethnic Koreans with foreign passports, foreign investors and highly educated foreigners are welcomed and treated favorably, Amnesty International reports that migrant blue-collar workers are often treated as “disposable labor.” From a legal perspective, migrant workers have very similar rights to native Korean employees, but these rights are routinely neglected by employers. While courts have offered some protection to migrant workers, the government has not pursued active enforcement measures against employers that exploit this population’s precarious status.

In the early days of the global economic downturn, in September 2008, the new Korean government announced it would deport about half of all migrant workers with precarious (“irregular”) work contracts until 2012.

Citation:

Korea Times, Garibong-Dong Has Largest Number of Foreigners, 28/2/2010

C Security

External security

External security
policy
Score: 7

Korea's security situation remains precarious due to the lack of a peace treaty with North Korea, despite the signing of the armistice ending the Korean War 57 years ago. The militaristic and extremely nationalistic regime in North Korea remains a major threat to South Korea's security. In this environment, successive Korean governments have been relatively successful in preserving peace, albeit under clear leadership by the United States, which retains command over the Korean military in times of war. The Korean armed forces are well funded, with defense spending totaling 4.3% of GDP, the third-largest such share in the OECD. South Korea's security still depends on the presence of U.S. forces and U.S. security guarantees. The other major partner in the country's trilateral security cooperation is Japan.

In the last two years the security situation has arguably weakened due to the deteriorating relationship with North Korea, North Korea's development of nuclear weapons and the northern neighbor's tests of long-range missiles. In reaction to U.N. sanctions following one of these missile tests, North Korea pulled out of the six-party talks that had been the only functional regional mechanism allowing negotiation with the communist state.

The Lee administration has canceled most aid for North Korea, and suspended a tourism project after a South Korean tourist was shot by a North Korean guard for trespassing. In turn, North Korea is questioning the future of the Kaesong Industrial Park, a package of South Korean investments in North Korea. As a result, trade between the two Koreas is declining. The weakening economic ties with its northern neighbor have in turn substantially limited the South Korean government's leverage.

The sinking of the South Korean corvette Cheonan in March 2010 offered another test of the South Korean government's ability to preserve peace and stability in the region. Even today, it is unclear whether North Korea was in fact involved in the incident and it remains too early to assess the situation fully. However, the Cheonan incident has deepened concerns about the capacity of the South Korean armed forces to deal with a crisis situation. In this context, it is not easy for Korea to promote its own security concerns, and its willingness to cooperate in order to advance this goal is understandably quite large.

Though these remain limited, South Korea has begun military exchanges with China, another measure aimed at adapting to a changing security environment. Beyond the Korean peninsula, the South Korean government also actively participates in international cooperative efforts targeting terrorism and organized crime, and participates actively in U.N. peacekeeping missions.

Citation:
OECD, OECD Factbook 2009

Internal security

Internal security
policy
Score: 8

While police statistics show a small increase in both violent crime and street crimes over the last few years, the crime rate in South Korea is low by international standards. The country has very strong gun control laws, making crimes involving firearms rare. There is no known terrorist activity in South Korea. A major concern in Korea that has not yet been effectively addressed is the spread of cybercrime, whose perpetrators take advantage of Korea's excellent broadband infrastructure and lax online security measures.

Most reported crimes involve pickpocketing in tourist areas and crowded markets, and are predominately non-violent in nature. Criminal perpetrators are usually deterred by the risk of confrontation and engage principally in crimes by stealth. The lax enforcement of traffic laws remains another major concern, as Korea continues to have among the OECD's highest road-fatality statistics.

Citation:
OECD, OECD Factbook 2009

D Resources

Environment

Environmental
policy
Score: 4

Environmental policies are currently insufficient to protect the environment or to preserve the sustainability of resources. In the last two years, contradictory trends concerning environmental policies have emerged. On the one hand, the current Lee administration has put "green growth" at the center of its agenda, and environmental policies have entered the political mainstream. The government is strongly supporting new technologies and is helping Korean

companies to develop “green” products such as hybrid and electrical vehicles and LED-based lighting and displays. The Seoul government has also promised to drastically expand bike paths, although most of these paths are planned for recreational use and will thus reduce commuter traffic only marginally. Public transportation is also steadily improving, with new subway lines and an airport railway under construction.

On the other hand, much of this so-called green growth can be seen as simply a new name for industrial and infrastructure policies. A considerable amount of the investment associated with the drive has been earmarked for the environmentally very controversial Four Rivers Project, which includes the construction of artificial waterways and dams. Huge amounts of public funds are also being used to develop, build and export new nuclear power plants. Furthermore, whenever environmental policies have conflicted with business interests, the environment has clearly taken a back seat.

Despite the need to account for the costs of environmental degradation in energy prices, the Korean government actually lowered the gasoline tax in 2008 following the international rise in oil prices. Korea has shown the OECD’s largest increase in CO₂ emissions since the 1990s. In 2009, Korea announced that it plans to reduce or at least slow the increase in the country’s CO₂ emissions; however, there has been little appetite shown for moving Korea from its developing country status in the Kyoto protocol into the Annex 1 category.

Research and innovation

The Korean government invests heavily in research and innovation, particularly in those fields that can be directly commercialized. The green growth policy is a good example of the government’s willingness to support domestic industry’s research and development of new products or production techniques. The government also uses protectionist measures that help Korean companies to develop indigenous technologies without facing competition. One example of this infant-stage technology protection is the requirement that all mobile phones sold in Korea must support a particular Korean Internet platform. Such trade barriers have resulted in the complete dominance of Korean mobile phone makers in the Korean market, because it is too expensive for foreign companies design special models just for the Korean market. In November 2009, the Korean government granted an exemption from the local requirement rule for the Apple iPhone, but the rule otherwise remains in place.

The Korean government started investing in modern

telecommunication infrastructure early, although it has seemed to lose its competitive edge as other countries catch up.

Weaknesses include a lack of high-quality fundamental research that cannot easily be commercialized. The ever-increasing dominance of large business conglomerates (chaebol) impedes the rise of small and medium-sized enterprises, as well as the startups that are often the source of new innovations (as opposed to incremental ones).

Citation:

OECD, OECD Review of Innovation Policies Korea 2009

Education

Education policy

Score: 7

Koreans are well known for their focus on education and good performance on tests such as the Program for International Student Assessment (PISA). The country's tertiary education enrollment rate is high. Education policies are hotly debated, and are an important priority for the government. About 16% of the general government budget is earmarked for education, considerably more than the 13% OECD average.

However, the Korean government budget is small compared to other OECD countries; thus, education spending accounts for a 4.5% share of GDP, as compared to an OECD average of 4.9%. Government spending on university education is particularly low, supporting only about 10% of the student population. By contrast, private education expenditure is 2.9% of GDP, by far the highest level in the OECD and about three times the OECD average. Thus, much of the success of Korean education can be attributed to parents' willingness to pay for education rather than to public policies.

Almost all parties involved in the field of higher education agree that a change in the Korean system is both necessary and of high priority. There are many complaints about the curriculum content and the authoritarian teaching styles at Korean schools and universities. A particularly controversial issue focuses on entrance exams, which critics see as a major cause of weak analytical and debating skills. Often, cramming is favored over analytic skills, discussion and creativity.

Citation:

OECD, OECD in figures 2009

OECD, Government at a Glance 2009

Netherlands Organization for International Cooperation in Higher Education (2009), South Korea, The Hague.

Management Index

I. Executive Capacity

A Steering capability

Strategic capacity

Strategic planning
Score: 7

Strategic planning remains an important factor in Korean governance. The content of this strategic planning has changed dramatically, from an earlier concentration on democratization, market-oriented reforms and the expansion of social security to a focus on economic growth, business-friendly policies and “green growth.” Given the strengthened position of the president and his comfortable majority in parliament, the political context for strategic planning has improved as compared with that facing the Roh administration. Compared to previous administrations, the Lee government is much more pragmatic, but also much more short-term oriented. Instead of being concerned with long-term goals, President Lee views the government as operating in a similar manner to a company, reacting pragmatically to challenges in order to remain competitive in the process of economic globalization.

Citation:

Office of the President, Policy Goals, <http://english.president.go.kr/government/goals/goals.php>

Office of the President, Special Policies, <http://english.president.go.kr/government/special/special.php>

Scholarly advice
Score: 6

Nongovernmental academic experts have considerable influence on government decision-making. Most observers believe that the influence of expert commissions has decreased somewhat, as President Lee has abolished many of the expert commissions established by his predecessors. However, he also created many new commissions, with a different focus. Commissions dealing with historical issues such as crimes committed during the periods of Japanese colonial rule or military dictatorship have been weakened or even abolished. For example, the Truth and Reconciliation Commission will be disbanded in 2010, as planned when it was created in December 2005. Critics say the commission is being shut

down because the current government is uncomfortable with scrutiny of the country's past. Others, including the commission's current president, argue that it has not been cost effective and therefore should cease work. The closure of the commission means that thousands of incidents, ranging from executions to the wartime killing of refugees, may remain uninvestigated, and that South Koreans wrongly accused of crimes against the government may lose their only chance to clear their name.

On the other hand, new commissions have been empanelled, such as the G-20 task force assigned the job of preparing for the G-20 summit. The process of naming experts remains politicized, and expert commission reports and results seem to be utilized according to their political rather than their scholarly value. Beyond their work in commissions, scholars are often tapped to serve in government positions.

Citation:

The Truth and Reconciliation Commission of Korea, <http://www.jinsil.go.kr/English/index.asp>

Time running out on South Korea's Truth and Reconciliation Commission, Stars and Strips, January 19, 2010, <http://www.stripes.com/news/time-running-out-on-south-korea-s-truth-and-reconciliation-commission-1.98156>

Truth in danger in South Korea, The Sydney Morning Herald, January 23, 2010, <http://www.smh.com.au/opinion/politics/truth-in-danger-in-south-korea-20100122-mqq5.html>

Inter-ministerial coordination

South Korea's presidential system has a dual executive structure, with the president serving both as head of state and head of government. The prime minister is clearly subordinate to the president and is not accountable to parliament. Political tradition, constitutional rules, the government's organizational structure and the de facto distribution of political power among the two offices allow the president and the president's office to be the dominant center of executive decision-making. The Office of the President (known as the Blue House) has the power and expertise to evaluate line ministries' draft bills. As the real power center of the Korean government, the Blue House has divisions corresponding with the various line ministry responsibilities. The Blue House is supported in its oversight role by the Prime Minister's Office and its Government Performance Evaluation Committee, as well as by public institutions such as the Korea Institute of Public Administration (KIPA). After taking office, President Lee dramatically reduced Blue House staff, potentially weakening the office's expertise. However, many of the initially

GO expertise
Score: 8

abolished positions were reinstated over time, as problems with GO expertise and implementation emerged.

Citation:

Government Performance Evaluation Committee, <http://www.psec.go.kr>

The Korea Institute of Public Administration (KIPA), <http://www.kipa.re.kr>

GO gatekeeping
Score: 9

The president is very powerful in the Korean constitutional system. There is extensive coordination between ministries, the prime minister's office and the Blue House in the course of planning cabinet meetings. The president presides over regular cabinet meetings and can legally and de facto return any items envisaged for the meetings as he wishes. In practice this competence is limited only by the expertise of the Blue House and the relatively smaller size of the Blue House bureaucracy. Thus, the de facto ability to return issues depends on their political importance for the president.

Line ministries
Score: 9

The Korean political system has become more hierarchical in the last two years, and the relative position of the Blue House has been strengthened. Many line ministries have lost influence, been downsized or merged. The large majority of issues are settled between the line ministries and the Blue House before cabinet meetings. Cabinet meetings are limited in their function to an exchange of information, while most strategic decisions are made in the Blue House.

Cabinet committees
Score: 7

The cabinet plays a relatively small role in the political process, as all important issues are discussed bilaterally between the Blue House and the relevant ministry. Committees are either permanent, such as the National Security Council, or created at need in response to a particular issue. Most experts believe that coordination between ministers is too weak, although the Blue House is playing an increasingly active role in ensuring cooperation.

Senior ministry
officials
Score: 9

Most day-to-day government business is handled by senior ministry officials, who prepare most items for cabinet meetings in an effective way. However, as mentioned above, the cabinet plays a relatively small role in the political process, as all important issues are discussed bilaterally between the Blue House and the relevant ministry.

Line ministry civil
servants
Score: 5

Most day-to-day government business is handled by senior ministry officials, who prepare most items for cabinet meetings in an effective way. However, as mentioned above, the cabinet plays a relatively small role in the political process, as all important issues are discussed bilaterally between the Blue House and the relevant ministry.

Informal coordination procedures
Score: 5

Most coordination between ministries is informal. However, it is not very effective due to the hierarchical government system. There is also a clear hierarchy structuring the ministries. Staffers at the newly created Ministry of Strategy and Finance see themselves as the elite among civil servants, and look down on other ministries. In addition, informal coordination processes tend to be plagued by nepotism and regional or peer-group loyalties (particularly among high-school and university alumni).

RIA

RIA application
Score: 8

There were no changes in regulatory impact assessment (RIA) policy in the period under review. RIA has been mandatory for all new regulations since 2005, and for older regulations should they be strengthened in any way. RIAs assess proposals' socioeconomic impacts and provide cost-benefit analyses.

Needs analysis
Score: 7

RIAs mention the purpose and need for regulation, but focus on cost-benefit analysis of the proposal.

Alternative options
Score: 6

RIAs are focused on a cost-benefit analysis of proposed regulations. They do analyze alternative options and discuss potential pros and cons, but experts say that in practice these alternatives play little role in the drafting of final regulations.

Societal consultation

Negotiating public support
Score: 3

Societal consultation has deteriorated substantially in the last two years. The Lee administration governs in a much more hierarchical and authoritarian way than did its predecessor, explicitly rejecting the Roh administration's vision of participatory democracy. To some extent, this is a consequence of the deepening polarization between conservatives and progressives, with NGOs and civil society groups viewed by the government as "progressive" anti-government forces. Support for advocacy NGOs has been substantially decreased, and the government has followed a course of confrontation with labor unions. The business-friendly Lee naturally has closer relationships with business interests. In May 2008 he announced the opening of a hotline for 108 selected businesspeople (including six foreign firms with domestic investments) and business associations, which they could use to call the president 24 hours a day. However, such personalized contact can hardly be termed societal consultation, even in the case of business associations.

Citation:

Korea Net, 12 May 2008, <http://www.korea.net/detail.do?guid =23383>

Policy communication

Coherent
communication
Score: 6

The government seeks to coordinate communication between ministries, but contradictions between government agency statements happen frequently. The communication policies following the sinking of Korean Navy corvette Cheonan in March 2010 were particularly criticized in Korea. The Coast Guard and the Ministry of National Defense gave conflicting versions of events, and contradictions were evident even within the ministry itself. The government was criticized by many observers, civil society activists and the opposition parties for holding back information from the public.

Citation:
JoongAng Daily 12 April 2010

B Policy implementation

Effective implementation

Government
efficiency
Score: 7

There are conflicting views as to the efficiency of the Korean government during the last two years. Some say that efficiency has increased due to the more authoritarian and hierarchical character of the new government as compared to the discursive and ultimately hesitant approach of Lee's predecessors. Due to the strong conservative majority in the parliament, the government is more likely to get bills through the parliament.

On the other hand, others argue that accomplishments in the last two years have been meager compared to Lee's original plans. More importantly, many of Lee's major policies, such as the "Grand Canal Project," have triggered substantial criticism and opposition. In the case of the proposed new administrative city, Lee changed course suddenly and now opposes the move of government administration offices to a newly constructed city.

Ministerial
compliance
Score: 10

Ministers in Korea do not have their own political base, and depend almost solely on support by the president. The president appoints and dismisses ministers, and cabinet reshuffles occur frequently. The average tenure of a minister in Korea is about one year, which allows ministers little independence.

Monitoring line
ministries
Score: 9

The offices of the president and the prime minister effectively monitor line ministry activities. The Korean government utilizes e-government software (the “policy task management system”) to monitor the implementation of policies in real time. Ministries have little leeway in policy areas that are important to the president, such as the Four Rivers Project or finance policies. In general, the Korean bureaucracy is organized in a very hierarchical way, but independence is stronger in areas that are comparatively less important for the president.

Monitoring agencies
Score: 9

The ministries effectively monitor the activities of all executive agencies, and the minister is responsible for compliance. Once again, the top-down structure of the Korean government allows for effective monitoring. Agencies generally have autonomy with respect to day-to-day operations, but even these can occasionally be the subject of top-down interventions.

Task funding
Score: 6

While South Korea remains a unitary political system, a rather elaborate structure of provincial, district and neighborhood governments has been in place since 1995.

Local governments play an important role in providing services to the citizens, and account for about 46% of government spending (as of 2006, the latest available data). However, local governments have relatively little ability to raise their own revenue. As their own sources account for only 22% of national revenues, most subnational governments need substantial support from the central government, particularly outside the Seoul region. In addition, local administrations lack sufficient manpower; central government staff is often therefore delegated to subnational authorities.

Citation:
OECD, *Government at a Glance 2009*

Constitutional
discretion
Score: 5

While autonomous local governments are protected by the constitution, there is no constitutional specification of their competencies and rights. Due to the very high dependence on transfer payments, most regional and local governments are vulnerable to interference by the central government. The reality of inadequate budgetary and functional authority in many local areas, as well as the disproportionate influence of city and provincial authorities, often leaves local administrators and governments short on revenue and effective governing capacity.

National standards
Score: 6

The Ministry of Public Administration and Security (MOPAS), created through a merger of predecessor agencies, is in charge of ensuring that local governments maintain national minimum standards. However, many local governments, particularly in rural areas, have a much lower professional standard than the city government of Seoul

or the central government. While the provision of basic services is similar in all regions, there is a huge difference between rich (i.e., self-sufficient) and poor (i.e., dependant on transfer payments) in the provision of additional services such as recreation facilities.

C Institutional learning

Adaptability

Domestic
adaptability
Score: 7

Korea can generally be described as an inward-looking country, but international developments that affect Korea directly can trigger rapid and far-reaching change. For example, Korea has reacted to the global financial and economic crisis with decisive action and massive government intervention. Global standards play a crucial role for the Korean government. Reports and criticism issued by international organizations such as the OECD or the IMF, or by partners such as the United States or the European Union, are taken very seriously. The degree of adaptability, however, depends to a large extent on compatibility with domestic political goals. For example, the Korean government is relatively less responsive to global standards in the field of labor rights or the reduction of nontariff barriers.

International
coordination
Score: 7

One of the main goals of the current government is to improve the prestige of Korea in the world (Kukgiok), and to build Korean soft power. The government has become considerably more active in international organizations. Korea has increased its contribution to the World Bank and the IMF, and is an active participant in the G-20. In 2010, Korea chaired the G-20, and organized the leaders' G-20 meeting in Seoul in November 2010. Korea is also increasing its efforts in development cooperation, and became a member of the OECD Development Assistance Committee (DAC) in 2009. The country participated actively in the Copenhagen conference on climate change in 2009, although its actual commitments to reduce greenhouse gases remain weak. The Korean government has also shown little enthusiasm for G-20 initiatives proposing the international coordination of financial sector regulation and taxation.

Organizational reform capacity

Self-monitoring
Score: 7

The Lee Myung-bak administration came to office with a clear goal of streamlining the Korean government and bureaucracy. Old institutions, procedures and attitudes were evaluated, and there was harsh criticism of real or perceived inefficiencies within the

bureaucratic system. Due to tight oversight by the Office of the President, it is likely that reevaluations of existing institutional arrangements will continue to take place whenever they are perceived to be an obstacle to the president's goals.

Institutional reform
Score: 6

There have been massive institutional reforms in the last two years, with the goal of creating a smaller and more efficient government. Many agencies and ministries have been merged, renamed and downsized. For example, through the merger of the Ministry of Finance and Economy and the Ministry of Planning and Budget, President Lee created a new superministry, the Ministry of Strategy and Finance. However, it is too early to say whether the goal of creating a "small and efficient government" will be successful or not. Some of the reforms proved not to be successful; the reorganization and downsizing of Blue House staff, for example, ultimately led to the reinstatement of many of the abolished positions (such as the senior officer for public relations). However, most experts believe that the merger of ministries and agencies will create some synergistic effects.

II. Executive accountability

D Citizens

Knowledge of government policy

Policy knowledge
Score: 6

Many citizens are well-informed on the details of a few hotly debated government policies. However, many other important policy fields, particularly in the economic and social realms, show much lower knowledge levels. The quality of information available is often limited, because political questions are often personalized, and thus interpreted as power struggles between ambitious individuals. The political spectrum remains very narrow, limiting the scope of political discussion and making it hard for citizens to develop their own opinion. The low trust in government announcements and in the mainstream media provides fertile ground for the spread of rumors. There is also a difference between the generations: The generation that grew up during the Korean War filters information through an anticommunist lens. The generation socialized during the struggle for democracy is highly politicized and has a general mistrust of the government, while the younger generation is less politicized and less informed about political issues.

E Legislature

Legislative accountability

Obtaining documents
Score: 7

Parliamentary committees are legally and de facto able to obtain documents they desire from the government. The government is required to deliver these documents within 10 days of a request. However, documents pertaining to commercial information or certain aspects of national security can be withheld from the parliament.

Summoning ministers
Score: 10

The parliament has the constitutional right to summon ministers for participation in hearings. This right is frequently used.

Summoning experts
Score: 10

Parliamentary committees are legally and de facto able to invite experts to hearings. In fact, expert hearings are quite frequent.

Task area coincidence
Score: 6

The task areas of parliamentary committees and ministries mostly correspond, but the parliament is not fully able to monitor ministries. While the parliament can summon and question ministers, the role of the minister in the Korean system is relatively weak. The professional bureaucracy in Korea is trained to be loyal to the president as the head of the government. The capacity of the ministerial bureaucracy is also vastly larger than that of the parliament. Consequently, parliamentary oversight is sufficient in fields that are hotly debated issues in the public, and are thus of interest for the parliament; however, oversight is weak in the vast majority of policy fields that fall outside the mainstream debate.

Audit office
Score: 5

The audit office is a constitutional agency that is accountable to the president. It regularly reports to the parliament.

Ombuds office
Score: 1

The Korean parliament does not have an ombuds office. Under the Lee administration, the government's ombuds office was merged with the civil rights and anticorruption agency into the Anticorruption and Civil Rights Commission of Korea. This commission is accountable to the president.

F Intermediary organizations

Media

Media reporting
Score: 5

Measured against the three-dimensional understanding of democratic media that takes into account not only freedom of the press/media, but also media pluralism and media quality, the main problem with

Korean media is the low quality of many media outlets in terms of their ability to serve as facilitator of a public sphere or “civic culture.” Part of the problem here is the country’s strong commercialism and associated weakness in political journalism. The main TV programs produce a mix of infotainment and quality information about government policies. Deeper analysis of information is rare on television, but takes place more often on public radio stations such as KBS 1. In the last two years, TV and radio organizations have shifted their programming in the direction of entertainment and infotainment. Political programs have either been replaced or their teams shuffled. Beginning in 2009, President Lee has instituted a biweekly radio address in which he explains government policies from his point of view.

Citation:

Blue House Radio Address, http://english.president.go.kr/pre_activity/speeches/speeches_list.php

Parties and interest associations

Party competence
Score: 2

There is almost universal agreement among political scientists, political observers, politicians and the general public that the political parties are one of the weakest links in Korean democracy. In addition to their inchoate nature and lack of internal democracy, political parties have weak ability to produce meaningful party manifestos, political programs or alternative policy proposals. In Korea’s personalized political system, party programs have little relevance and party competence is low. In general, parties remain very weak. Because they form around powerful individuals, parties are frequently renamed, split and merged. Programmatic unity is stronger in the conservative GNP and the progressive DLP, as compared to the main opposition party DP, which suffers from a lack of party loyalty, and the smaller NPP, which brings together individuals from many different progressive groups. The election platforms of individual candidates tend to be more important than party programs, but often avoid proposing coherent policies in favor of promises to achieve certain goals and secure certain benefits for the candidate’s electoral district.

Association
competence
(business)
Score: 6

The business associations (the Korean Employers Federation (KEF) and the Federation of Korean Industries (FKI)) and labor-union umbrella groups (the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU)) have some expertise in developing policy proposals. They are supported by think

tanks that provide scholarly advice. However, all these groups are relatively weak compared to the influence of individual businesses and company-level trade unions. Some individual businesses, such as Samsung, LG and Hyundai, have their own think tanks that produce high-quality research and are able to analyze and provide alternatives to government policies.

Association
competence
(others)
Score: 6

The rise of civil society organizations has been one of the most important political trends in Korea during the last decade. Some of the largest NGOs, such as the Korean Federation for Environmental Movement (KFEM), the Citizen Coalition for Economic Justice (CCEJ) and the People's Solidarity for Participatory Democracy (PSPD), have build up considerable competences in specialized fields such as environmental policies, election reform and human rights. They provide reasonable policy proposals and are supported by a large group of academics and professionals. The majority of smaller NGOs remain focused on service provision and do not develop policy proposals. However, as previously mentioned, civil society and NGOs – especially those on the left of the center – have found it difficult under the Lee administration to have any influence on the political decision-making process.

This country report is part of the Sustainable Governance Indicators 2011 project.

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