



**APSAC Conference 2011 Paper**  
Fremantle, Western Australia  
15 – 17 November 2011

## **ACRC'S HOLISTIC APPROACH IN FIGHTING PUBLIC SECTOR CORRUPTION IN KOREA**

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### **1. INTRODUCTION**

The year 2011 marks the 10th anniversary of the Anti-Corruption Act that the Korean government enacted in order to build legal and institutional foundation based on which corruption issues can be dealt with more systematically.

Over the past decade, Korea has seen widespread recognition that eradication of corruption is more crucial than anything else to national development, and public officials' awareness of the importance of integrity has grown fast.

The Korean government's anti-corruption efforts have been highly appreciated by the international organizations such as the UN and the OECD, while many Asian nations are keen on benchmarking Korea's anti-corruption system and policies.

This indicates the improvement of Korea's anti-corruption efforts and integrity level, but there is still much to be done for Korea to become a fully clean society commensurate with its economic status.

Therefore, the Korean government has put "building a fair society"<sup>1</sup> on its national agenda and has been implementing action plans on diverse areas. It is focusing on improving the integrity level of the nation as a whole, in particular, as a prerequisite to realizing a fair society. The rationale for this policy is pretty straightforward: when the integrity level of the society improves, expediencies and evasion of laws will disappear, laws and principles will be more respected, and our nation will become a cleaner and more transparent society where people can trust each other and strive to co-prosper.

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<sup>1</sup> A fair society can be realized based on a foundation where people are given fair opportunities, compete fairly, and take responsibility for the result.

## **2. EVOLUTION OF THE KOREAN GOVERNMENT'S ANTI-CORRUPTION POLICIES**

### **2.1. Before establishment of the anti-corruption body (1948 to early 1990s)**

The industrialization of the Korean economy started in full force from the 1960s out of the ruins of the Korean War. For more than three decades since, it recorded a remarkable growth of 7%-8% per annum. As a result, the nation successfully transformed itself from an aid recipient to a donor nation, and its industrialization is being recognized as a success story in economic development.<sup>2</sup>

In the course of such phenomenal growth, however, transparency and ethics issues relatively did not get much attention.<sup>3</sup> Illegalities and irregularities were overlooked or tolerated to a degree if that was deemed necessary for economic growth.

The Korean government attempted to reform such an atmosphere by cracking down on and punishing irregularities and corruption, but without that much success in addressing the side effects of intensive economic development such as collusive relations between politicians and businesses.

### **2.2. Establishment of institutional frameworks for fighting against corruption (mid-1990s to early 2000s)**

Along the global fight against corruption as indicated by the entry into force of the OECD Anti-Bribery Convention in 1999, there arose movement in Korea, too, to improve transparency of businesses and the nation as a whole arose in Korea partly due to the financial crisis in the late 1990s. Civic groups and academic circles, in particular, strongly urged the government to establish an anti-corruption act and an independent anti-corruption body. Such movement made a massive impact on the political circle: presidential and congressional candidates set about campaigning on an anti-corruption platform, and the National Assembly settled down to a discussion of corruption issues.

As a result of such efforts, the Anti-Corruption Act was enacted in 2001 aimed to prevent and efficiently regulate corruption, and the Korea Independent Commission Against Corruption (KICAC), a national anti-corruption watchdog, was established in January 2002.

### **2.3. Full-fledged implementation of anti-corruption efforts and expanded scope of anti-corruption policy (2002 to 2007)**

Motivated by the enactment of the Anti-Corruption Act, the Korean government put on top of its agenda the fight against corruption and improvement of the nation's integrity level, and built a systematic national anti-corruption framework around the KICAC.

Between 2002 and 2007, the KICAC implemented and improved preventative measures, i.e. formulation of pan-governmental anti-corruption policies, improvement of laws and institutions, implementation of the Integrity Assessment and anti-corruption training, and enactment of the Code of Conduct for Public Officials, as well as reactive measures including receiving and handling of corruption reports and whistleblower protection and rewarding system.

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<sup>2</sup> Korea's GDP grew 416 times from \$2 billion in 1960 to \$832.9 billion in 2009, while its official development aid rose from \$699 million in 2007, \$802 million in 2008, to \$1,094 million in 2009.

<sup>3</sup> Reidenbach and Robin described such a state as an "amoral stage" in corporate moral development (R. E. Reidenbach & D. P. Robin, A Conception Model of Corporate Moral Development, in Journal of Business Ethics, April, 1991).

#### **2.4. Attempt to combine anti-corruption with civil rights protection (since 2008)**

In February 2008, the Anti-Corruption and Civil Rights Commission (ACRC) was newly established, replacing the KICAC. Its foundation gave rise to a new form of anti-corruption system that integrates anti-corruption functions with ombudsman and adjudication of administrative appeals. The ACRC attempts to expand the scope of its anti-corruption efforts by linking them with civil rights protection activities.<sup>4</sup>

### **3. KOREA'S ANTI-CORRUPTION POLICIES AND MEASURES**

#### **3.1. Execution of pan-governmental and comprehensive anti-corruption measures**

Rather than blaming corruption on individual public officials' lack of morality or accountability, the ACRC aims to create a corruption-free culture in the public sector and society as a whole by establishing and implementing comprehensive and long-term measures at the national level. For example, the anti-corruption watchdog establishes national anti-corruption plans to coordinate and support voluntary anti-corruption efforts of public agencies; holds regular meetings with anti-corruption officers of each agency to discuss policy directions; and prepares timely countermeasures to address pending issues.

#### **3.2. Preventive anti-corruption system**

A key characteristic of Korea's anti-corruption system is that it has moved beyond just detecting and punishing corruption that has already occurred, towards finding preventive solutions for factors causing corruption or corruption-vulnerable areas.

##### ***3.2.1. Improvement of corruption-causing laws and institutions***

If corruption is caused by structural reasons, it should be addressed with more fundamental measures. This is why the ACRC seeks for institutional improvement in corruption-vulnerable areas. It selects the tasks for institutional improvement by considering the seriousness, urgency, and repercussions of corruption in each area. The responsibilities for institutional improvements are divided between the ACRC and the relevant public organizations considering the nature of the tasks.<sup>5</sup>

The results from the monitoring of institutional improvements pursued by the ACRC indicate that significant progress has been made. For example, transparency has been considerably enhanced in areas with chronic corruption, such as construction, tax, and education.

##### ***3.2.2. Corruption Impact Assessment***

The Corruption Impact Assessment is designed to assess legislative bills to enact or revise a law, to determine if they have corruption-causing factors.

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<sup>4</sup> The ACRC is carrying out anti-corruption activities as part of civil rights protection, for example, by improving or removing 1,684 unreasonable administrative rules that gave burden on citizens or businesses.

<sup>5</sup> Institutional improvement has been recommended for 130 areas (with 1,230 action plans) from 2002 to Sep. 2010.

If a government department submits a bill to the ACRC, it is analyzed by the ACRC based on three evaluation criteria.<sup>6</sup> If the bill is determined to have corruption-causing factors in the assessment, the ACRC recommends improvement for the bill.

Since the program was introduced in 2006, more than 80% of the ACRC's recommendations have been accepted and reflected into bills.<sup>7</sup> The program is being viewed as highly effective in preventing corruption and lowering the cost that might be incurred after a bill is made into law.

### ***3.2.3. Integrity Assessment and Integrity Consulting for Public Agencies***

The ACRC applies very sophisticated evaluation tools such as the Integrity Assessment and the Corruption Perception Survey to diagnose the causes and the level of corruption in public agencies. Based on evaluation results, it provides integrity consulting for public agencies and develops/improves pan-governmental anti-corruption policies.

Each agency's performance in implementing anti-corruption policies is monitored again later by the Integrity Assessment and the Anti-Corruption Initiatives Assessment.<sup>8</sup> This process stimulates public agencies' voluntary anti-corruption efforts and helps improve their integrity level consistently.<sup>9</sup>

Recently, the Integrity Assessment has been further calibrated to reflect the type and business characteristics of each agency by introducing customized index. This will allow more accurate measurement of integrity levels, subsequently encouraging stronger voluntary anti-corruption effort.

### ***3.2.4. Enactment of the Code of Conduct for Public Officials***

Pursuant to the Anti-Corruption Act, the Code of Conduct for Public Officials (CCPO) was enacted as a Presidential Decree in February 2003. The CCPO sets down a set of ethical standards that public officials must comply with in the performance of duties. Based on the CCPO, all public sector organizations have set up and implemented their code of conduct that is tailored to their own professional requirements and conditions.

The amendment of the Anti-Corruption Act in July 2005 provided for the establishment of the code of conduct for the employees and executives of public corporations and public service agencies. In November 2010, the Code of Conduct for Local Council Members—another set of code of conduct for elected officials—was enacted as a Presidential Decree.

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<sup>6</sup> The three assessment criteria are 1) easiness of compliance, 2) appropriateness of discretion, and 3) transparency of administrative procedures.

<sup>7</sup> Since adoption of the Corruption Impact Assessment in 2006, 6,899 bills have been assessed until August 2011. Out of those bills, the ACRC recommended improvement of 3,362 items (1,291 bills) to competent government departments.

<sup>8</sup> The Integrity Assessment is designed to measure the levels of corruption in public agencies based on a survey of citizens and public officials who had first-hand experience of the target public agency's service; the Corruption Perception Survey is conducted to understand the general public's perceptions towards causes of corruption and performance of the government's anti-corruption policies; and the Anti-Corruption Initiatives Assessment evaluates public agencies' anti-corruption policies and their performance by looking into their anti-corruption infrastructure, the agency head's commitment, etc.

<sup>9</sup> The integrity score of public agencies improved from 6.43 out of perfect 10 in 2002 to 8.44 in 2010.

In the early stage of the CCPO, there was scepticism about its benefit. However, it is now believed to have great impact on improving integrity and transparency in the public sector: it helped reduce malpractices committed by public officials by fighting off undue gifts or gratuities and encouraging use of business promotion budget only for intended purposes, and it also contributed to enhancing public officials' sense of morality.

### **3.3. Reactive corruption-control measures**

#### **3.3.1. Examination of corruption reports**

The ACRC operates the Corruption Reporting Center separately from the general complaints center so that it can handle reports on suspected corruption promptly and professionally. It makes sure the complainant's identity is protected to the maximum degree.

The ACRC reviews the corruption reports it received and, if it determines that investigation by the Board of Audit & Inspection or other investigative body is necessary, it refers the case to them. After completion of investigation, the investigative agency is required to notify the ACRC of the result of investigation. Such collaboration between the ACRC and the investigation authority not only can improve efficiency in handling corruption reports, but also makes the two parties hold each other in check.

Out of the 741 corruption reports that were transferred to investigative agencies from 2002 to August 2011, corruption was detected from 519 cases, indicating a high detection rate (approximately 70%).<sup>10</sup>

#### **3.3.2. Whistleblower protection and reward**

Corruption in modern society is becoming more covert, structural, and intelligent. In reality, corruption that occurred within an organization is hard to detect only with external audit or investigation, unless either its current or former employee tips off about it.

Based on the recognition that whistleblower protection is an important precondition to encourage reporting of corruption, the ACRC has developed and is running a robust whistleblower protection system that covers protection of whistleblowers' identity, employment and physical safety, as well as rewards for whistleblowers.

Recently, it has strengthened punishment for retaliatory actions against a whistleblower, and increased the maximum compensation amount from KRW200 million (about USD200,000) to KRW2 billion (about USD2 million), to make the protection system more effective.

### **3.4. Spreading a culture of integrity through anti-corruption training and integrity campaign**

Eradication of corruption can be a long, hard battle in a society like Korea, which has corruption-prone culture such as nepotism and paternalism.

Therefore, the ACRC runs various campaigns to promote a culture of integrity, while offering anti-corruption training not only for public officials but for ordinary citizens.

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<sup>10</sup> Except for 55 cases that are under investigation as of September 2011

More specifically, it founded the Anti-Corruption Training Center that is solely dedicated to anti-corruption training, and opened an anti-corruption trainer course, which generates anti-corruption evangelists for different areas including the public sector, businesses, and civic groups.

Not only that, through Integrity Model School, Integrity PR group activities of college students, development of learning materials on integrity, etc. the ACRC is making efforts to help students form a sense of integrity from early on.

Recently, it has introduced a new integrity training program that is tailored along the public officials' career cycle for different groups: newly employed public officials, promoted public officials, senior public officials, public officials seconded to foreign countries, etc.

### **3.5. Collaboration with civil society and the private sector**

The ACRC is pursuing an anti-corruption policy that engages political, administrative, and business sectors, which used to be the subject of anti-corruption control activities, and is led by civil society.

For example, it has built a network of public-private anti-corruption governance by establishing the Policy Council for Transparency Society, and held an anti-corruption symposium and the "Clean Korea" campaign jointly with the Council. Currently, the Council consists of 26 member organizations from nine sectors including the public, political, economic, and civil sectors.

In addition, to help build ethical management capacity of the corporate sector, the ACRC publishes Business Ethics Briefs every month to provide businesses with up-to-date information and analysis on ethical management. It also provides training for ethics managers of public corporations and SMEs. It developed "Ethics Management Model for Public Corporations," "Corporate Transparency Self-Assessment Model" and "Ethics Management Report Standards."

## **4. DIRECTION FOR KOREA'S ANTI-CORRUPTION POLICY**

### **4.1. Establishment of Anti-Corruption Master Plan**

The ACRC is currently working on a mid-to-long-term anti-corruption master plan. Since fragmented and one-off actions against corruption are not sufficient to enhance the integrity level of the nation, it is important to develop a comprehensive anti-corruption strategy at the national level.

The master plan will be composed of anti-corruption policies that are suitable to globalization, IT innovation, and new governance, and will be primarily led by the central government in cooperation with the business and civil sectors.

The plan will include a broad range of strategies, including laying the foundation for integrity education and culture to improve the sense of integrity of the public, establishing a national anti-corruption system that meets the global standards, and facilitating of the anti-corruption system. It will also contain detailed action plans that will not only be carried out during the incumbent administration, but over the next five or ten years.

#### **4.2. Efforts to improve transparency in the private sector**

In the international community, ethical management and transparency in the corporate sector have been regarded as key determinants for national competitiveness.

It is true that, however, the level of Korean companies' ethical business practices does not yet meet enhanced international requirements compared to their counterparts from advanced nations, in terms of socially responsible investment, ISO 26000, etc.<sup>11</sup>

Therefore, it is necessary to take policy measures for inducing and supporting Korean companies to enhance their moral standards to the global level. To this end, the ACRC will work more closely with the civic groups that monitor and criticize unethical business practices independently, as well as with the international community.

In addition, it plans to promote ethical management further by offering incentives, or awarding or promoting the businesses that take a lead in ethical management. On the other hand, the ACRC will introduce disciplinary actions against the businesses that stick to the past corruptive practices.<sup>12</sup>

In this regard, the ACRC established the Act on Protection of Public Interest Whistleblowers that is aimed to protect the people who reported on violations of public interest such as public health and safety, environment, consumer rights and fair competition. The act took effect on September 30, 2011.

Going forward, more and more companies are expected to adopt ethical management voluntarily by responding to ever-diversifying international requirements in the areas of environment, safety, integrity, and transparency. This will, in turn, improve the transparency of the Korean economy, which will then provide a more business-friendly environment.

#### **4.3. Ensuring a culture of integrity takes root across society**

Based on its experience in fighting against corruption for the past ten years, the ACRC assesses that Korea has consolidated its institutional framework against corruption.

Even with ideal systems and institutions, however, it will be difficult to raise the whole nation's integrity level, unless integrity is internalized in the way of thinking and behaviors of the people who run them.

For this reason, the ACRC is putting much of its energy in improving citizens' sense of integrity and spreading a culture of integrity across society.

To this end, the ACRC recently introduced the Solicitation Declaration System and has been pushing for the Bill on Prohibition of Public Officials' Pursuit of Private Interest and Acceptance of Undue

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<sup>11</sup> Korea ranked 22nd in the World Economic Forum's 2010 Global Competitiveness Index out of the total 139 nations covered. Its ranking is low in indices related to corporate accountability, such as efficacy of corporate boards (57th), strength of auditing and accounting standards (95th), and protection of minority shareholders' interest (102nd).

<sup>12</sup> Korea has legal provisions that not only impose criminal punishment upon bribers, but ban bribe-paying companies from bidding for a contract with a central or local government agency. In addition, there is a law that suspends construction business license of the contractors that were found guilty of bribery.

Solicitation. The bill is aimed at managing and controlling solicitation practices derived from nepotism and paternalism, and public officials' conflicts of interest. In addition, the ACRC plans to run a public-private campaign to eradicate undue solicitation practices.

The ACRC also promotes self-initiated anti-corruption activities led by "anti-corruption employee clubs" within public agencies that are aimed to reduce unfair practices and old "wine & dine" culture. It plans to extend such activities to students and the private sector to improve the integrity level of society as a whole.

Along with these efforts, the ACRC will continue to ensure that integrity leads to national competitiveness.

## **5. CONCLUSION**

When Korea was rushing for economic growth, it could not afford to take a pause and think about justice and fairness. However, now every sector of Korean society including the government and businesses realizes that integrity, ethics, and transparency are prerequisites for sustainable development and prosperity.

No country that became independent after the World War II has yet joined the ranks of advanced nations. However, Korea aims to follow the road not taken, with our successful experience of democratization and industrialization. To achieve this goal, we need a foundation buttressed by transparent government, ethical businesses, and self-regulating civil society.

To fulfil its responsibility as a member of the international community that fits its economic status, Korea will do its utmost to share its experience and knowhow in fighting against corruption with all the nations that wish to get technical assistance from us. Korea is fully open-minded and ready to adopt other countries' best practices and systems, as well.