

Korea's Policies and Instruments to Manage Conflicts of Interest

Gae Ok Park

Director of Policy Coordination

Korea's Independent Commission Against Corruption

1. A paradigm shift in Korea's anti-corruption policies since the late 1990s

In the late 1990s, Korean people reached a consensus that they cannot achieve sustainable development without solving corruption problems. Such a national consensus provided a turning point in Korea's anti-corruption policies.

It was imperative to break away from a conventional "hard policy" that relies on detection and punishment after the occurrence of individual corruption cases, and instead turn to "soft policy" aimed at removing the possibilities of corruption beforehand. The Korea Independent Commission Against Corruption (KICAC) was established in 2002 to implement new policy measures that meet such a need.

In collaboration with the Prosecutors' Office, the Police, and the Board of Audit and Inspection, KICAC has introduced and implemented new anti-corruption systems and diverse measures to enhance transparency in Korea's public sector and Korean society as a whole.

The new direction or paradigm of anti-corruption policies adopted by KICAC is as follows:

- policy shift from punishment to prevention
- institutional improvement in corruption-prone areas
- more transparent and accountable administration
- strengthened ethics in public service and corporate management
- consolidated system for protecting whistle-blowers

2. Conflict-of-interest policies and instruments in Korea

In general, the act of "corruption" can be defined as the act of seeking illegitimate private gains in the performance of one's duties as a public official by using one's public position. It refers to the cases in which a public official performs his or her duties in an undue or illegal manner to pursue private interests, not public interests. In other words, corruption occurs in conflict-of-interest situations, i.e., situations involving conflicts between one's duties as a public official and private interests as a private person.

Therefore, the core elements of anti-corruption policies lie in inducing public officials to deal with their duties in a way appropriate to public interests in conflict-of-interest situations. A public official must keep to the principle that no one may judge his/her own case.

Filtering corruption from conflict-of-interest situations is a more efficient means of addressing corruption than punishing those who already committed corruption by seeking private gains.

Some of the instruments used in Korea to carry out such policies are the Code of Conduct for Public Officials, registration and disclosure of personal assets of senior public officials, post-employment restrictions applicable to corrupt public officials, and the blind trust system.

Among these instruments, the code of conduct and post-employment restrictions on corrupt public officials are in force under the Anti-Corruption Act, while the Public Service Ethics Act stipulates the blind trust system and the registration of personal assets and restrictions on the employment of senior public officials.

3. Code of Conduct for Public Officials

All public officials of Korea are obliged to comply with the Code of Conduct for Public Officials, which is legally binding as a Presidential decree.

It lays down behavioral guidelines for public officials in situations involving a strong possibility of conflicts between public and private interests in performing their official duties.

The major contents of the code of conduct include the following:

Coping with specific conflict-of-interest situations

- *When a public official gives his or her subordinate instructions that may hamper fair performance of public duties*
→ The subordinate public official may refuse to follow the instructions by communicating the reason to the superior official.
- *When a public official should consider it difficult to perform his or her duties in a fair manner because they are related to his or her own private interest*
→ The public official may avoid performing the duties involving conflicts of Interest.
- *When a politician forces or requests a public official to perform his or her duties in an improper way*
→ The public official shall either report the matter to the head of his/her agency or consult with the Code of Conduct Officer before handling the matter.

Prohibition of giving and receiving unfair profits

- A public official shall not use his or her public position to benefit him/herself or other selected people.
- A public official shall not use any good office or solicitation to hinder other public officials from performing their duties in a fair and proper manner for the purpose of benefiting him/herself or other selected people.
- A public official shall not involve in transactions of or make investment in marketable securities, real estate and other financial instruments by using information he or she obtained in the course of performing his or her public duties.
- A public official shall not receive money or other valuables from a duty-related person.

4. Registration and disclosure of personal assets of public officials

Enacted in 1981, the Public Service Ethics Act stipulates the asset registration by public officials of Grade 3 or above.

In 1993, the Act was revised to expand asset registration requirements from Grade 3 or higher to include public officials Grade 4 or above. The revised Act also introduced the asset disclosure system requiring the mandatory disclosure of registered property in the government bulletin by public officials with ranks of Grade 1 or higher, heads of local governments, members of local councils, and their lineal ascendants and descendants as well as spouses.

Currently, Korea's senior public officials of Grade 4 or higher are obliged to register their incomes and assets as of the end of the year, which are reviewed by the public service ethics committee. Political executives including the President and officials of Grade 1 or over are also required to disclose their assets and incomes in the government bulletin.

The asset registration and disclosure system which has been effective for more than 25 years has played a crucial role in preventing corruption in Korea's public service.

5. Enforcement of the blind trust system

In addition to the asset registration and disclosure system, some public officials are subject to the blind trust system that has been in force since June 2006. According to this system, high-ranking officials of Grade 4 or higher who work at the Ministry of Finance and Economy or other financial authorities and own stocks worth 30 million won (US\$30,000) or more are required to either sell their stocks or put them in bank trust accounts.

6. Restrictions on employment of retired public officials

Post-employment restrictions are aimed to prevent cases in which a public official, while performing his or her duties, gives favors to a certain private-sector enterprise in return for future employment. However, such a restriction has been applied to limited cases since it might interfere with the freedom of choosing one's profession.

According to the Public Service Ethics Act, after a Grade 4 or higher public official retires, he or she will face a two-year restriction on employment at for-profit private enterprises or legal persons that are related to the areas of service where he or she worked for three years leading up to retirement.

Additionally, the Anti-Corruption Act stipulates that if a public official is dismissed for corrupt conduct, he or she will face a five-year restriction on employment at public-sector organizations as well as private-sector enterprises or legal persons related to the areas of work where he or she worked for three years right before the dismissal.

7. Conclusion

In recent years, international organizations such as the UN and OECD have shaped the global combat against corruption by disseminating and assessing the implementation of international anti-corruption instruments. Governments now view fighting corruption not merely as the "right thing to do," but as the key to surviving the global competition that is increasingly intensifying.

The current Korean administration, too, has worked hard to seek the eradication of corruption as its main priority. It acknowledges that it must root out corruption not only to establish a culture of integrity, but to increase its competitiveness and standing in the international community.

For these compelling reasons, stronger efforts should be made to ensure that public officials meet the higher expectations of ordinary citizens, and that people have confidence in the integrity of public service.

The Korean government is acutely aware that its conflict of interest policies will prove more effective and fruitful only if all sectors of society encourage, monitor and assess the implementation of these policies.