



# Korea

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## **GROWING INFLUENCE OF CIVIL SOCIETY SECTOR IN KOREA**

Perhaps one of the most often talked about developments in social science over the last few decades has been the reemergence of civil society and its growing influence in many nations' democratic governance. The rise of third sector organizations and the decline of nation-states are not only changing the way societal players interact but also changing ways in which society makes important policy decisions. The emergence of this pattern of 'governing' is a direct challenge to the (developmental) state model of relying on a strong and centralized government. The governance theories based on unitary centralized governments, state elitism and top-down decisionmaking are giving way to new concepts such as public-private partnership, coproduction, networking, collaborative programs, volunteerism, and bottom-up approaches. In other words, the traditional bureaucratic state relying on hierarchy, rules, procedures and universal values is opening up to new third sector organizations, and states are increasingly relying on participatory models with an emphasis on cooperation and partnership with other relevant policy actors.

Although the term 'governance' means different things to different people, it is often described as the purposive means of guiding and steering a society or community.<sup>2</sup> As a result, governance is determined by numerous social, economic, political and institutional factors. This implies that the evolution or the transformation of 'governance' depends on these contributing factors, and the reemergence of civil society and government failures are two important factors at play. It has also been known that changes in governance are occurring at different levels—at the 'policy network' level and at the 'policy implementation' level. The

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<sup>2</sup> There exists different modes of governance and they are the outcomes of political process with various social, economic and political actors. As Rhodes (1997) explains, the choice over a particular mode of governance is a "matter of practicality; that is, under what conditions does each governing structure work effectively?"

former refers to the increased participation of citizens and civil society organizations in the government's policymaking process, while the latter is associated with the increasing outsourcing of public services to nonprofit and for-profit organizations.

Although the emergence and legitimacy of these nonprofit organizations in democratic governance has been well documented, there has been little research on the types and practices of accountability that are appropriate for nonprofits. Discussions on the growing influence of civil society organizations and hence their role in democratic governance is not complete without examining accountability relationships. One needs to examine various internal and external (principal-agent) relationships among nonprofit management, trustees, government agencies, donors, serviced communities and other constituents. We are particularly interested in the more institutionalized accountability relationships in the form of internal governance. This paper thus examines various aspects of accountability relationships including those of nonprofits/government and nonprofits/members in the Korean context. The paper is organized as follows: 1) an examination of the growth of the Korean nonprofits, 2) an analysis of laws and regulations governing nonprofits, 3) empirical analysis related to organizational governance in Korean nonprofits, and 4) policy recommendations. This paper focuses on three types of nonprofit organizations: corporation-sponsored philanthropic organizations, service organizations, and advocacy groups. Philanthropic organizations are usually engaged in grant-making activities for artists, researchers, students, and social entrepreneurs, whereas service organizations provide educational, health and social welfare services for people in need. Advocacy organizations or civic movement organizations are engaged in advocacy activities for society at large. We analyze distinguishing characteristics of their accountability relationships.

### **Growth and development of Korean civil society**

Along with the rapid growth of its economy, the role of the nonprofit sector in Korea has grown substantially over the last thirty years. Between 1970 and 1997, the sector grew at a rate exceeding 22% per annum. As of 1997, the nonprofit sector accounted for 2.96% of the gross domestic products or 5.6% of gross domestic service produced (Kim, 1999) Explanations for the growth of the nonprofit sector are as numerous and diverse as there are various different types of organizations within the sector. Since the nonprofit sector is populated by a diverse set of organizations, there are different explanations for each set of nonprofits.

An important factor contributing to the growth of civil society relates to the emergence of a more favorable political and social environment for the operation of nonprofits. The restoration of a democratic government following the mass

movement in 1987 galvanized public support for the civil society organizations that had played a big part in it. Social elites and activists were now free to organize and advocate for causes they believed in, and diversity and pluralism within civic society and was made possible by the improved political and social conditions. The subsequent proliferation of nonprofit organizations has been significant. The data show that 56.5% of all nonprofit organizations (NPOs) were established in the 1990s while 21% were set up in the 1980s, and only 9.0% in the 1970s (Kang, 2001)

Some scholars studying the growing influence of nonprofits have based their discussions on demand-side theories, and others on supply-side theories. The demand-side theorists contend that society’s increasing demand for non-standardized and alternative forms of services other than those provided by governments has spurred the growth of mainly service nonprofits including medical, social service, and educational institutions. Nonprofits serve as private providers of public goods, and increasing socio-political and economic diversity enables these organizations to play a bigger role. This was also made possible by increasing economic prosperity and by bureaucratic and political constraints placed on the public sector’s growth in terms of their provision of ‘new’ public services. In addition, the public concern over the rapid growth of the public and for-profit sectors led to nonprofits playing more active roles.

The supply-side explanations are often based on the critical roles of civil society leaders, activists, and policy entrepreneurs, not just in terms of educating the public about various social and political issues but also in terms of actively establishing organizational frameworks under which new services can be performed. This is a particularly plausible explanation for the short-term growth of many rights-based nongovernmental organizations in both developed and developing nations. Another important supply-side factor is government support in terms of implicit and explicit provisions of subsidies, including tax exemptions. Fama and Jensen (1983) contend that such subsidies were in large part responsible for the proliferation of nonprofit organizations in developed nations. It was also true in Korea where more than two-thirds of nonprofits generated revenue from their association with governments. In a survey of 78 civic groups conducted in 2001, it was found that, on average, 27% of their operating income came from governments in the form of subsidies and service fees (Kang, 2001) Total government subsidies reached around 110 billion won in 1999 alone (Kim, 1999).<sup>3</sup>

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<sup>3</sup> In addition, the cordial relationship between the state and civil society enabled the state to tap into important resources civil society organizations can provide in terms of personnel exchanges. It also enacted “Private NPO Support Bill” which provided a framework under which governments can sponsor of various nonprofit programs in 1999.



of internal democracy and public accountability of these organizations is of critical importance. A more pointed criticism is that they lack both the participation of members in the decisionmaking process and internal democracy.<sup>5</sup> Often advocacy groups have been called ‘civic groups without citizens.’ It is interesting to note that such criticisms often came from insiders. The criticism often targets undemocratic decisionmaking by a small group of activists. Recent incidents involving internal power struggles among founders and managers<sup>6</sup> have also accentuated internal governance problems.

**General Legal Framework Governing NPOs**

***General Regulatory Framework***

The Civil Code provides a legal basis for the incorporation, operation and liquidation of legal persons including those of nonprofits. It also lists requirements for organizational charters and organizational governance. The incorporation of nonprofits is governed by Article 32, which states that “(An) association or foundation engaged in scholarly work, religion, charity, social interaction or otherwise nonprofit activities may be made a legal person subject to the approval of relevant ministries.” This implies that all incorporated nonprofits have their legal basis under the code unless otherwise stated. In addition, Article 33 stresses the importance of registering with a government agency in order to “come into existence,” while Article 39 states the government’s right to terminate the basis for a legal person if “a legal person operates such businesses outside the scope of their incorporation, or engages in acts detrimental to public interest.” Although the code lays out specific rules for the incorporation and operation of legal persons, the government agencies do not enforce these rules strictly as they lack the resources and personnel.

While the Civil Code deals with nonprofits and their legal matters in terms of incorporation and operation in general terms, “the Act Concerning Incorporation and Operation of Public Interest Organization (“the PIO Act),” enacted in 1975, governs most associations and foundations established to serve ‘public interest’ in

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<sup>5</sup> In December of 2002, the full-time employees of YMCA Korea threatened to go on strike in protest against the Board Chairman who has been in office for 15 years. The employees accused the chairman of embezzling organization fund and unfair personnel management.

<sup>6</sup> A case in point is one of Korea’s most well-known advocacy groups, the Citizen’s Coalition for Economic Justice (CCEJ)’s internal revolt in 1999 when full-time employees called for organizational reform and changes in the decision making process. In another case, a similar tension between the leadership and full-time staff were reported at the PSED, which was later resolved without public controversies (Kim and Shin, 2002).



medical ethics. Those nonprofits that are found in violation of the act are subject to fines or cancellation of operating permits. Similar to the Medical Act, the Private School Act allows only ‘well-endowed’ nonprofit foundations to run private schools. The act allows the Ministry of Education and Human Resources to impose various types of regulations on the establishments and operation of these institutions. Again, the government retains the right to order the liquidation of any nonprofits but only in exceptional circumstances. Furthermore, the Social Welfare Act governs nonprofits established to provide services to the general public including those with facilities for the elderly, orphans, the poor, the victims of sexual crimes, and others with disabilities. According to the act, the government retains the right to cancel subsidies and even operating permits if no other administrative penalty can enforce government guidelines and orders.

The Private Nonprofit Assistance Act was legislated in December of 1999 to “provide an enabling environment for nonprofits in pursuance of public interests” and as a result the government has the legal basis to aid the “sound growth of the civil society sector.” In 2001 alone, a sum of 15 billion won was allocated to more than 500 nonprofits nationwide. To receive subsidies, nonprofits are required to submit project proposals and a government-appointed private panel selects recipients based on merit. Only those nonprofits that are registered with government agencies are eligible for assistance. At the conclusion of their projects, nonprofits are required to submit year-end reports to the government.

**TABLE 1: Legal Framework surrounding Nonprofits in Korea**

Nonprofit Type	Governing Regulation and Act
All nonprofits except those that are subject to special law including most advocacy organizations	Civil Code
Associations or foundations established to serve ‘public interest’ in areas of scholarship provision, research grant making, scholarly work, and charitable activities	The Act Concerning Incorporation and Operation of Public Interest Organizations
All medical institutions created under the Civil Code 32	The Medical Act
All educational institutions created under the Middle School Act (Article 2) and High School Act (Article 2)	The Private School Act
All social welfare I institutions created under the Civil Code 32	The Social Welfare Act



one-fifth of the total board members.<sup>8</sup> Trustees are often appointed to a four-year term and may be reappointed by the boards. The chairman is appointed among trustee members by the board. If a trustee or the chairman has a conflict of interest with the organization, he or she cannot vote on the issue. If they are found to be in violation of governmental guidelines, the government can remove trustees from the board.

Under the PIO Act, philanthropic organizations are required to appoint two auditors to oversee financial health. Auditors should not have any ‘special interest’ in the affairs of philanthropies, and the government may recommend the appointment of a new auditor if it considers the board’s choice inappropriate. Auditors are required to report any accounting and policy irregularities found during the examination of financial accounts to the government. If a director’s conduct is considered detrimental to the interests of the organization, auditors may have the court remove the director in question. The act states that the board is responsible for “making major decisions including investment of its assets, budget and finance related matters, changes in organizational charter, disestablishment of the organization, appointment of directors, and other items listed in the organizational charter (Articles 3-6).”

**Other Acts**

The legal requirement on nonprofits governed by the Medical Act is fundamentally similar to the PIO Act in that boards of trustees play an important role in governance. According to the Medical Act, the government can recommend members of board of trustees. The government also retains the right to dismiss a director if he/she refuses to follow government orders or violates law.

The legal requirement on NPOs governed by The Private School Act and the Social Welfare Act are also similar to the Medical Act, in that the government can appoint a temporary director if the position is vacant.

**Legal mandate on transparency**

Legal mandates on financial management and transparency are quite similar among organizations governed by the Medical Act, the Private School Act, and the Social Welfare Act. Nonprofits governed by individual incorporation acts are required to report their annual business plans, budgets, and year-end-financial statements to appropriate regulatory authorities for review. However, PIOs are required to submit financial statements including income statements, balance sheets and cash-flow

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<sup>8</sup> Special relationships include family members, relatives, dependents, and employees of affiliated organizations.



We found that the PIO Act places more emphasis on external accountability, i.e., management’s responsibility to outside constituents, which imposes costs on their operational efficiency and internal accountability. For instance, with strict restrictions on who can become board members, most corporation-sponsored philanthropies appoint figureheads with minimal experience in the work of the organization. One possible explanation is that the government is more concerned about the possible abuse of tax-exempt status by business corporations and service organizations than their positive influence on the society through non-conventional works.

On the other hand, advocacy or civic groups face minimal oversight regulations on their internal governance. Moreover, for fear of stirring up confrontation with ‘feisty’ advocacy groups, the government has been reluctant to enforce some of the regulations laid out in the Civil Code or tax laws. This ‘non-uniformity’ in the enforcement of law among different types of nonprofits is likely to cause credibility problems for government regulators in the future. We recommend that the government consider appointing an independent commission to study rules and regulations concerning nonprofits as well as enforcement of these rules. In order for the government to create an enabling environment for nonprofits, it is important that the government subject all nonprofits to the same standards of accountability and internal governance.

**Internal Governance and Transparency in Practice.**

In order to examine how various types of nonprofits have established their own internal governance and how the government’s regulatory framework is influencing the workings of nonprofits in practice, we conducted a survey of forty-eight large Korean nonprofits. Of the forty-eight organizations surveyed, eleven were corporate philanthropies, seventeen were service organizations, and twenty were advocacy groups.<sup>9</sup> The philanthropies surveyed were chosen from the list of top 20 philanthropies in terms of total assets as of 1999.<sup>10</sup> Service organizations and advocacy groups were chosen based on their public recognition, history, and reputation.

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<sup>9</sup> Of seventeen services organizations, seven were social welfare agencies, five private school Foundations, and five medical institutions. Of twenty advocacy organizations, five were consumer advocates, five environmental, and ten general civic groups.

<sup>10</sup> Of those eleven philanthropies, seven focus on education (scholarship and making research grants), two on both culture and education, and one on both social welfare and education.



organizations. In addition, even those decisions made by trustees are subject to government approvals, including director appointment and major investment decisions. The government even has the authority to dissolve a philanthropic organization if it is found to be operating against ‘public interests’. As a result, government regulation may have prevented philanthropies from seeking more active involvement in public affairs.<sup>15</sup>

Another possible explanation is the powerful influence controlling shareholders have on these organizations, and they may not only influence the appointment of trustees but also their approach to new businesses. This is because although charitable contributions are considered a part of a broader set of social activities in which large businesses are involved, ultimately trustees have to satisfy the majority or controlling shareholders that what they do is in the interests of the firm. We found that holding companies or conglomerate headquarters that oversee the operations of subsidiaries and foundations have been indirectly involved in the running of these philanthropies by influencing the appointment of trustees as well as important policy decisions. We also found that they made very little effort to ‘recruit’ representatives of important external constituencies on the boards, or to include as one of board’s functions the task of cultivating relationships with key elements in the community. Unless the boards of trustees become truly autonomous with respect to their relationships with corporations or founding families, they will continue to be seen as a part of the corporations’ business activities.

**Service Organizations**

For nonprofits that run private schools or provide health service to the public, transparency and accountability may have broader consequences with regard to customer trust and government relationships. Unlike philanthropic organizations, those who benefit from these nonprofits’ activities are stakeholders or recipients of services who often pay for them. Internal governance becomes an important factor in ensuring efficient provision of services to their customers. In addition, those service agencies that receive government funding are in contractual relationships with governments, which require them to fully disclose financial and operating information while maintaining transparency and public accountability in their operations.

Our survey on social welfare organizations found that boards meet frequently, and tend to discuss issues thoroughly. Despite the legal requirement of at least five

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<sup>15</sup> During the telephone interview with program officers, many have carefully expressed concerns over excessive government regulation and the inflexibility of bureaucrats.







leadership in boards of trustees. In order for corporate-initiated foundations to gain public trust, they need to engage the public in a discussion of their roles and make their decisionmaking process more transparent. Since the public is highly skeptical of their ‘special relationships’ with sponsoring corporations, they need to pursue more proactive information disclosure policies.

***Service Organizations***

In the case of social welfare organizations, although all had their own websites, only three-out-of-seven surveyed provided information about their businesses and financial status on those sites. In addition, three provided organizational charts while three gave out biographies of directors. However, in our interviews, the service organizations were more “willing” to disclose relevant information to the public if requested. Unlike philanthropies, these organizations are not required by the Gift and Inheritance Act to make their financial status public.<sup>22</sup>

During the telephone interviews, six out of seven program officers mentioned that had a good working relationship with government agencies. However, some did mention that the level of government intervention depended on how much the government subsidized their programs, and those that receive a large portion of their operating income from government agencies tended to be subject to more intervention.

For educational and medical institutions, the survey and interview suggest that because of the tight regulatory framework in place and high level of government subsidies, they tend to focus on maintaining good working relationships with public agencies. The Ministry of Education and Human Resources, and the Ministry of Health and Social Welfare require that they submit annual operating and financial reports. These ministries also conduct informal inspections to monitor the progress of nonprofits and to supervise their activities. The government regulation is supposedly aimed at maintaining a stable supply of important public services and financially sound stewardship. In the case of educational institutions, a total of 18.36 billion won in government subsidies were provided in 2000 alone.<sup>23</sup> However, these nonprofits were not interested in actively engaging the public. None of these nonprofits had their own websites and only two out of ten surveyed provided basic information about their organization through the school or hospital homepages.

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<sup>22</sup> The Gift and Inheritance Law exempts NPOs from the mandatory external audit if no single person or company has donated more than 5% of total endowment.

<sup>23</sup> The amount is roughly U\$0.3 million and U\$15 million, respectively.





## CONCLUSIONS

The legitimacy of third sector organizations stands on their substantive and procedural justification to undertake social and political action. As civil society organizations are becoming more involved in the running of society, these forms of justification are moving beyond the traditional measures of accountability. The traditional approach values both the fiduciary responsibility of an organization to government regulatory agencies in terms of complying with legal and regulatory standards, and to donors or members who make resources available. The latter is often discussed in the context of internal accountability through program evaluation and results-based performance auditing. While “institutional learning sustains organizational effectiveness, institutional integrity grants legitimacy to the practices (Choudhury and Ahmed, 2002).” To strengthen the social capital enriching role of nonprofits, the internal and external accountability need to focus more on their role as major institutional actors in the society. This implies that as long as the public does not perceive accountability to be limited to the compliance of nonprofits to legal and regulatory standards, we should expect accountability to include democratic internal governance. In order to accomplish this task, nonprofits must break out of the traditional mold and “consider themselves as publicly responsible institutions for the services they provide (Choudhury and Ahmed, 2002).”

However, it is interesting to find that over-emphasis on the traditional mechanisms of accountability may have contributed to the undermining of institutional integrity in some nonprofits. Over-zealous bureaucrats—while trying to protect public interest and adhering to strict enforcement of rules and regulations concerning monitoring of nonprofits—often lead to the bureaucratization of the organizations themselves, which not only affects organizational efficiency but also organizational legitimacy. We argue that organizational legitimacy is also affected for two reasons: first, it might be perceived by the public that the organizations are more interested in keeping governments happy; and second, it might pull resources away from procedural activities which hinder their operational effectiveness and legitimacy. For instance, the PIO Act forced philanthropies to incur a heavy administrative burden and rely on the traditional forms of external accountability, resulting in a loss of managerial autonomy and advocacy strength.

In seeking to further the role of nonprofit boards, nonprofits need to understand that the board has two main functions: 1) to assure members that contributions are properly applied; and 2) to assure those it serves that the organization furthers its mission. In fulfilling these duties, the board must monitor overall performance and







**TABLE 2: Names and Current Position of Participants**

Name	Current Position	Organizational Affiliation
Jung, Ku-hyun(1,2,3,4)	Dean and Professor	Yonsei University, Department of Business Administration
Yoon, Soo-kyung(1,3)	Secretary General	Community Chest of Korea
Hwang, Chang-soon(1,2,3,4)	Professor	Soonchunhyang University, Department of Social Welfare
Kim, Woon-ho(1,2,3)	Professor	Kyunghee University, Graduate School of NGO Studies
Park, Tae-kyu(1,2,3,4)	Professor	Yonsei University, Department of Economics
Min, Kyung-choon(1,2,3)	Executive Managing Director	Samsung, Community Relations Department
Yang, Yong-hee(1,3)	President & CEO	NSYSCOM, Korea
Lee, Kang-hyun(1,3)	Director	Volunteer 21, Korea
Yoon, Suk-in(1,3)	Secretary General	Korean Council of Volunteer Organizations
Park, Sang-peel(3)	Professor	Sungkonghoe University, Graduate School of NGO Studies
Kwak, Tae-suk(3)	Executive Director	CJ, Society Contribution Team
Chung, Ho-jin(3)	Secretary General	The Daesan Foundation for Rural Cure & Society
Oh, Kwan-Young(2)	Executive Member	Citizen's Action Network
Moon, Hyung-ku(2)	Professor	Korea University, Department of Business Administration
Yoon, Young-jin(2)	Professor	Keimyung University, Department of Public Administration
Park, Won-soon(1,2)	Secretary General	The Beautiful Foundation
Soh, Byung-hee(2)	Professor	Kookmin University, Department of Economics
Moon, Kook-hyun(1, 3)	President & CEO	Yuhan-Kimberly, Korea
Kim, Junki (1, 2, 3, 4)	Professor	Seoul National University

(Note: Numbers in parenthesis indicate the meeting sessions in which participants took part.)

