

August 27, 2021

South Korea's Anti-Corruption Campaign So Far: An Honest Crusade or Is It 'Naeronambul'?

In the build-up to the May 2017 general elections, South Korean President Moon Jae-In, like many of his counterparts in various jurisdictions around the world, campaigned on a platform that emphasized putting an end to the chronic corruption that has plagued his predecessors, and South Korean politics more generally. Since his election to the country's highest office, President Moon has promised to reform South Korea's giant conglomerates (also known as *chaebols*) that are run by the nation's most powerful families,¹ initiated a series of probes into alleged corruption involving current and former lawmakers and officials, and established an agency dedicated to investigating corruption among high-ranking officials. Yet as he enters the last stretch of his presidency, President Moon has had to deal with allegations that his tenure has evolved into a thinly guised power grab involving acts of political revenge, as well as increasing disillusionment of the general public with the government's efforts following a series of graft scandals and policy missteps.

Attorneys
[Andrew J. Dale](#)
[Carissa Yuk](#)

Public opinion polls have shown that support for the Moon administration sunk to an all-time low of 29% in April 2021, in part due to dissatisfaction over economic inequality and a perceived sense that the government has not been practicing what they preached.² South Koreans have also taken to using a sarcastic term to describe the current administration's perceived hypocrisy – 'Naeronambul' is a Korean term that indicates double standards and translates to "If I do it, it's a romance. If you do it, it's adultery."³ Despite President Moon's many promises and pledges in combating graft, his administration has ironically been accused of more of the same when it comes to engaging in cronyism and corruption.

Controversy over a New Anti-Corruption Agency

In January 2021, the South Korean government formally established the Corruption Investigation Office for High-Ranking Officials ("CIO") to investigate corruption involving current and former senior officials, including lawmakers, prosecutors, judges, presidents, prime ministers, as well as those officials' family members (including spouses, parents, children and grandchildren).⁴ In the case of presidents, the definition of family members extends to cousins.⁵ The CIO is authorized to investigate certain crimes including bribery, embezzlement and breach of trust, abuse of authority, and perjury.⁶ The CIO is also authorized to investigate other individuals who are implicated in the crimes under investigation who are not themselves high-ranking officials.⁷ Other law enforcement agencies that become aware of any crimes that fall under the jurisdiction of the CIO must immediately notify the CIO, and the CIO can compel the relevant agency to transfer the case to it.⁸

While the launch of the CIO is expected to curtail the considerable influence wielded by the prosecutor's office,⁹ it has limited authority to prosecute most of the cases it investigates. The CIO can only initiate prosecutions of prosecutors, judges, and high-ranking police officers.¹⁰ For investigations involving other high-ranking officials, the CIO must turn over its findings to the Supreme Prosecutor's Office ("SPO"), and the SPO will decide whether or not to initiate a prosecution. The CIO's own rules on investigations, which include superseding the prosecution's power over indictment in certain cases, have also drawn backlash from prosecutors who believe that the rules grant the CIO excessive power.¹¹ Although surveys showed that about two-thirds of South Koreans supported the establishment of the CIO, many critics and opposition lawmakers have expressed concern that the office could in fact become another powerful institution at risk of being abused by President Moon and his allies to seek revenge against political opponents.^{12 13}

Recent Actions Taken by the CIO

Since its establishment in January 2021, the CIO has initiated a number of investigations into prosecutors, lawmakers and other senior government officials. In May 2021, the CIO began its first probe by raiding the Seoul Metropolitan

Office of Education over alleged hiring irregularities involving Seoul Education Superintendent Cho Hee-yeon.¹⁴ Cho has been accused of abusing his power by reinstating five teachers who were originally dismissed after being convicted of violating the Public Official Election Act. He has denied the allegations and has since been summoned to the CIO's offices in July 2021.¹⁵ The case has drawn attention and controversy as the CIO's first official investigation. Prominent politicians and the general public have criticized the CIO for choosing to prioritize Cho's case and to select it as the agency's first at a time when there is increasing suspicion over corruption among prosecutors and in the judiciary. However, any outcome will be influenced by the fact that the CIO will not be able to file charges against Cho; the agency only has the authority to indict officials in certain positions such as judges and prosecutors.

In July 2021, the CIO raided and searched the home of Lee Gwang-cheol, a presidential secretary for civil affairs and justice, to obtain evidence in connection with his suspected involvement in allegedly facilitating an illegal travel ban on former Vice Minister of Justice Kim Hak-ui in 2019, among other illegalities related to Kim.¹⁶ Kim was stopped from leaving the country in March 2019 as prosecutors started to reinvestigate allegations that he received sexual favors from a local contractor over a decade ago. The CIO requested from the presidential office certain documents and materials related to the case, and stepped up its probe into three senior prosecutors also suspected of colluding to orchestrate the purportedly illegal exit ban.

The office is currently contemplating an investigation into an unidentified lawmaker affiliated with the main opposition People Power Party for allegedly accepting illegal political contributions.¹⁷ If the probe is confirmed, it would be the CIO's first investigation of an incumbent lawmaker. The lawmaker purportedly received 20 million won (~USD 17,300) from a former municipal council member and her family in 2016 and 2017 in exchange for helping to influence his/her party to support the council member's 2018 election campaign. It was reported that the council member split her contributions into four separate payments of 5 million won each in order to circumvent regulations stipulating that an individual can donate up to 5 million won a year to a lawmaker. The lawmaker who received the funds later explained that he/she was unaware that individuals associated with the council member had donated additional funds. Like the case involving Seoul Education Superintendent Cho, the CIO will not be able to indict the lawmaker even if it identifies enough evidence to prosecute him/her as it does not have the requisite authority to do so.

The Power Struggle Continues

The establishment of the CIO and its recent probes take place against the backdrop of a protracted power struggle between the government and the prosecution. President Moon has consistently reiterated that one of the priorities of his administration is to reform the country's judicial framework by curbing prosecution power. Perceived as powerful but unreliable and lacking in political will, the prosecution has the power to both investigate and indict crimes, though many do not consider that the institution has the ability to root out corruption at the highest levels.

Years of political infighting over the future of the prosecution in South Korea has culminated in a recent and dramatic conflict between Justice Minister Choo Mi-ae and Prosecutor General Yoon Seok-youl.¹⁸

In July 2019, President Moon appointed Yoon as the country's top prosecutor, tasked with spearheading prosecution reform and recognized for his experience and expertise in fighting corruption and unfair practices throughout his career. Under Yoon's direction, the prosecution initiated an investigation into allegations of financial malfeasance and nepotism involving former Justice Minister Cho Kuk, a key ally of President Moon. Cho resigned in October 2019 over criticism of his perceived hypocrisy, among other reasons. Choo Mi-ae was subsequently appointed in Cho's place in January 2021, and as part of a major reshuffle, she replaced the senior prosecutors who were investigating Cho and his family.

In a dramatic turn of events in December 2020, Choo recommended to President Moon that Yoon be suspended for two months over four counts of alleged misconduct, including ordering the illegal surveillance of judges and violating his duty to maintain political neutrality in his alleged involvement in the 2018 Ulsan mayoral election.¹⁹ President Moon

endorsed Yoon’s suspension and the measure went into immediate effect on the same day. At the same meeting, Choo also tendered her resignation in an attempt to ease the tensions caused by her feud with Yoon, which had contributed to record-low approval ratings for the Moon administration.²⁰

After only an eight-day suspension, Yoon was later reinstated after the courts issued an injunction temporarily lifting President Moon’s suspension order against him.²¹ Yoon resigned from his position in March 2021, in apparent protest against the establishment of the CIO that would strip the prosecutorial function of much of its investigative powers,²² and announced in late June that he was launching a bid to run in next year’s presidential elections to take place in March 2022.²³ Surveys and poll results show that Yoon has enjoyed early support and is currently the frontrunner in the race to become the country’s next president, but his lead has since narrowed.²⁴

Yoon will also have to face a number of additional challenges as he prepares to bid for the presidency. Yoon’s own family, primarily his wife and mother-in-law, have been investigated on multiple corruption charges. In early July 2021, Yoon’s mother-in-law, surnamed Choi, was sentenced to three years in prison for medical law violations and engaging in fraud. Choi is also being investigated in connection with other fraud allegations.²⁵ Additionally, the prosecution is looking into claims that Yoon’s wife, Kim Keon-hee, who is CEO of the art events planning company Covana Contents, accepted bribes from companies disguised as sponsorships in 2019, engaged in stock price manipulation of a car dealer, and bought shares in the dealer’s affiliate on preferential terms.²⁶ Yoon himself has not been able to escape controversy – the CIO is reportedly considering a probe into allegations that Yoon abused his power and interfered in two criminal cases, including impeding progress and ultimately stopping a massive financial fraud case involving Optimus Asset Management.²⁷

More of the Same?

Most recently in August 2021, South Korea released Samsung heir Lee Jae-yong on parole after he spent more than one and a half years in prison for bribing former president Park Geun-hye in exchange for government support of a merger that strengthened Lee’s control over the Samsung corporate empire.²⁸ The Justice Ministry explained that the decision to release Lee was based on concerns related to the effects of the COVID-19 pandemic on the country’s economic situation, and is just the latest in a line of controversial decisions affording leniency to convicted tycoons and other establishment elites. Many believe that the decision is emblematic of the relationship between the government of President Moon and the country’s *chaebols*, and represents the current administration’s inconsistent approach towards *chaebol* reform and fighting corruption.

With the next presidential election less than seven months away (the democratic presidential primaries are scheduled for October this year), all eyes will be on whether Yoon will be able to navigate South Korea’s scandal-ridden political landscape unscathed. Yoon has pledged to promote “fairness and justice” as his key campaign slogan even as he and his family faces a series of misconduct allegations, which may prompt many South Koreans to again express cynicism over Yoon’s ‘Naeronambul’ behavior.

-
1. *South Korea’s new leader Moon Jae-in to take on chaebol — family-owned empires*, USA Today (May 12, 2017), <https://www.usatoday.com/story/news/world/2017/05/12/south-koreas-new-leader-moon-jae--take-chaebol-family-owned-empires/101586220/>.
 2. *Moon’s approval rating hits record low of 29 pct: Gallup*, Yonhap News Agency (April 30, 2021), <https://en.yna.co.kr/view/AEN20210430005200315>.
 3. *‘My romance, your adultery’: S.Koreans’ sarcasm over hypocrisy follows Moon into final year*, Reuters (April 9, 2021), <https://www.reuters.com/world/asia-pacific/my-romance-your-adultery-skoreans-sarcasm-over-hypocrisy-follows-moon-into-final-2021-04-09/>.

4. Article 2, paragraph 1 and 2, *Act on the Establishment and Operation of the Corruption Investigation Office for High-Ranking Officials*, https://elaw.klri.re.kr/eng_service/lawView.do?hseq=53133&lang=ENG.
5. Article 2, paragraph 2, *Ibid*.
6. Article 2, paragraph 3, *Ibid*.
7. Article 2, paragraph 4, *Ibid*.
8. Article 24, paragraph 1 and 2, *Ibid*.
9. *S. Korea takes long overdue steps to rein in prosecution service, but task far from over*, Yonhap News Agency (December 18, 2020), <https://en.yna.co.kr/view/AEN20201217008100315>.
10. Article 3, paragraph 2, *Act on the Establishment and Operation of the Corruption Investigation Office for High-Ranking Officials*, https://elaw.klri.re.kr/eng_service/lawView.do?hseq=53133&lang=ENG.
11. *CIO's authority over indictments faces backlash from prosecutors*, Yonhap News Agency (May 4, 2021), <https://en.yna.co.kr/view/AEN20210504003100315>.
12. *Letter: Korea's 'super-agency' may in fact provide a shield for corruption*, Financial Times (January 7, 2020), <https://www.ft.com/content/7c42a69e-2e19-11ea-a126-99756bd8f45e>.
13. *South Korea's proposed anti-corruption unit is a thinly disguised power grab for Moon Jae-in – and it won't work*, South China Morning Post (May 3, 2019), <https://www.scmp.com/comment/insight-opinion/article/3008572/south-koreas-proposed-anti-corruption-unit-thinly-disguised>.
14. *Anti-corruption agency raids Seoul education office over power abuse case*, The Korea Herald (May 18, 2021), <http://www.koreaherald.com/view.php?ud=20210518000708>.
15. *Anti-corruption agency summons Seoul education chief in power abuse probe*, The Korea Herald (July 27, 2021), http://www.koreaherald.com/view.php?ud=20210727000805&ACE_SEARCH=1.
16. *CIO raids home of presidential aide over alleged illegal exit ban case*, The Korea Herald (July 20, 2021), http://www.koreaherald.com/view.php?ud=20210720000811&ACE_SEARCH=1.
17. *Anti-corruption unit could probe lawmaker for first time*, The Korea Herald (August 11, 2021), http://www.koreaherald.com/view.php?ud=20210811000608&ACE_SEARCH=1.
18. *S. Korea takes long overdue steps to rein in prosecution service, but task far from over*, Yonhap News Agency (December 18, 2020), <https://en.yna.co.kr/view/AEN20201217008100315>.
19. *Yoon starts legal fight against his suspension*, Korea JoongAng Daily (December 17, 2020), <https://koreajoongangdaily.joins.com/2020/12/17/national/politics/Yoon-Seokyoul-Moon-Jaein-suspension/20201217165300523.html>.
20. *South Korea Minister Offers to Quit Over Fight Damaging President*, Bloomberg (December 17, 2020), <https://www.bloomberg.com/news/articles/2020-12-17/s-korea-minister-offers-to-quit-over-fight-damaging-president>.
21. *Court lifts Moon's suspension of top prosecutor*, Korea JoongAng Daily (December 24, 2020), <https://koreajoongangdaily.joins.com/2020/12/24/national/politics/Yoon-Seokyoul-Seoul-Administrative-Court-suspension/20201224231000537.html>.
22. *South Korea's top prosecutor resigns in fight with President Moon over investigative powers*, The Straits Times (March 4, 2021), <https://www.straitstimes.com/asia/east-asia/south-korea-top-prosecutor-resigns-in-fight-with-president-moon>.
23. *Popular ex-prosecutor in S. Korea launches presidential bid*, AP News (June 29, 2021) <https://apnews.com/article/moon-jae-in-north-korea-south-korea-seoul-presidential-elections-dafc05f4468ea4ddf0251106f0216de8>.
24. *One month after presidential bid, Yoon sees sharp decline of support*, The Korea Times (July 26, 2021), https://www.koreatimes.co.kr/www/nation/2021/08/356_312806.html.
25. *Top presidential contender faces series of ethical lapse allegations*, The Korea Times (August 17, 2021), https://www.koreatimes.co.kr/www/nation/2021/08/356_311580.html.

26. *Ibid.*
27. *Investigation into ex-top prosecutor still at early stage: CIO chief*, Yonhap News Agency (June 17, 2021), <https://en.yna.co.kr/view/AEN20210617007251315>.
28. *South Korea to release Samsung scion on parole*, AP News (August 9, 2021), <https://apnews.com/article/business-south-korea-4d91344be72d7e3ed81625b0d769c0d0>.