

**WHY SOUTH KOREA NEEDS INSTITUTIONAL REFORM IN THE  
GOVERNMENT STRUCTURE, AND HOW IT CAN MAKE A CHANGE:  
SOME SUGGESTIONS TO THE SOUTH KOREAN LEGISLATURE AND  
JUDICIARY FOR AN INSTITUTIONALLY REINFORCED  
CHECK-AND-BALANCE MODEL**

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## ABSTRACT

At the end of the millennium, South Korea faces great domestic and international challenges and demands, burdened with the recently visualized structural financial hardships. Indeed so far and so quickly, South Korea has achieved growth and competitiveness, while experiencing the Korean War, the Cold War, two military coups d'état, and distributional inequalities accompanied by rapid economic growth, in its fifty-year modern history since the establishment of the First Republic of Korea in 1948.

However, government-centered developmental polities and hostile environment for national security, coupled with general problems common to the modern administrative states, not only have resulted in a big executive branch and the consequent power imbalance within the governmental structure, but also have caused massive state intervention that created opportunities for corruption and the abuse of governmental power. Moving into the next stage of mature and sustainable development will require the realignment of government that will reflect the democratization movement in the civil sectors, let alone the realignment of the markets and industry.

As a first step to take such challenges, South Korean government structure will be diagnosed from the perspective of a student of law, in light of the constitutionalism and the rule of law. The proposition is that the government structure serves as the infrastructure for the nation's future effort to carry out its political, economic and social tasks. The power relationships between the government branches and the limits of the current check-and-balance mechanisms will be first discussed. Further, proposals will be made on how the South Korean legislature and judiciary should reinforce the mechanisms

to monitor the executive branch, and how to institutionalize such devices. Discussions will include the ongoing debates regarding the possibility of introducing the special prosecutor system in South Korea as an institutional solution for the conflicts of interest and the lack of political neutrality of the prosecutorial office in cases involving highly political issues or high-ranking executive officials.

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