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South Korea: The Lasting Pitfalls of the ‘Imperial Presidency’

JÖRG MICHAEL DOSTAL

Abstract

The use of the term ‘imperial presidency’ in South Korea refers to the fact that the country’s 1987 constitution grants the state’s highest office holder *de facto* imperial powers with regard to domestic and foreign policy making. This version of the term therefore differs from Arthur M. Schlesinger’s usage in the US context, which was critical of the discretionary powers exercised by US presidents in efforts to subvert the checks and balances of the US Constitution. Concentrating political power in the South Korean presidency severely curtails the work of the other political institutions, including its parliament (the National Assembly). Every time the presidency changes hands, the leadership structures of all other public institutions are subjected to major restructuring according to political loyalty, which interrupts their routine functioning. Overall, the presidency in its current form is dysfunctional and works as a barrier against democratic deepening. This article examines why lengthy debate over South Korea’s imperial presidency has so far failed to result in comprehensive constitutional reform.

Keywords: constitutional reform, imperial presidency, Moon Jae-in, presidentialism, South Korea, Yoon Suk-yeol

Introduction

SOUTH KOREA’S PRESIDENTIAL election of 9 March 2022 produced a photo finish defeat of the liberal political camp. The conservative candidate, Yoon Suk-yeol, received 48.6 per cent of the vote, beating the liberal candidate, Lee Jae-myung, on 47.8 per cent, while a third leftist candidate, Sim Sang-jung, received 2.5 per cent. South Korea’s president is elected in a single round contest with a simple plurality of the popular vote for a non-renewable five-year term. Yoon’s victory was owing to three major factors. First, there was disappointment about the limited domestic achievements of the outgoing liberal president, Moon Jae-in, in particular in relation to the issue of house price inflation. (In the capital, Seoul, the price of an average apartment doubled during Moon’s five-year presidency, making it increasingly difficult for those with middle class aspirations to purchase property.) Second, Ahn Cheol-soo, a centrist, withdrew his candidacy days before the election in favour of Yoon. This allowed the conservative candidate to add much of the third-placed Ahn’s projected

electoral support of 7 per cent to his own vote share. Third, the leftist candidate Sim of the Justice Party, which represents classical social democratic ideas, split the progressive vote, also facilitating the conservative’s narrow presidential victory.

The 2022 liberal defeat interrupts the previous pattern of South Korea’s post-1987 democracy. So far, the conservatives and liberals have always managed to win the presidency twice in a row (two conservative presidents ruled between 1988 and 1997 and from 2007 to 2017, respectively, while the liberals held the presidency between 1998 and 2007). This article examines South Korea’s recent political evolution. The first section focusses on South Korea’s ‘imperial presidency’, which forms the core of the post-1987 system. In the second part, countervailing features of South Korea’s political structure balancing the presidency are examined. Subsequent sections examine the track record of the liberal Moon presidency between 2017 and 2022 and the early stage of the new conservative Yoon presidency. A conclusion sums up the evidence, asking whether South Korea’s

longstanding debate about constitutional reform, that is, abandoning the ‘imperial presidency’, will ever produce substantial results.

South Korea’s post-1987 presidential system

The 1987 Constitution of the sixth Republic, re-drafted as part of a transition agreement between the outgoing military regime and democratic reformers, provided for direct multicandidate presidential elections. Under the previous military regimes between 1961 and 1987 (referred to as the third, fourth and fifth Republics, respectively), the title of president was acquired by means of single candidate *faux* elections or owing to indirect voting in parliaments largely controlled by the military. The 1987 negotiated transition was limited in scope and retained the centralisation of political power in the presidency. In the English language literature, South Korea’s political system is often referred to as a semi-parliamentary presidential system, which highlights the dominance of the presidency vis-à-vis parliament. Overall, the post-1987 presidential system retains a strong ‘winner takes all’ logic, while checks and balances and the circulation of power are severely curtailed.¹ At the beginning of the twenty-first century, one senior analyst still judged that ‘it is not an exaggeration to state that the President, as the nation’s ruler, decides all important national policies on his own. This has not changed since the founding of the nation’.²

The dominant role of presidentialism in South Korean politics initially derived from the Constitution of the first Republic (1948–1960), which was introduced on behalf of the first president, Rhee Syung-man. Favouring his own council and authority, Rhee rejected plans for a

cabinet system of government. He subsequently moved to curtail any independent role of political parties, parliament and other administrative or political bodies.³ The first president further insisted that the role of the prime minister should be constitutionally limited to that of ‘an assistant to the president’.⁴ Rhee thereby explicitly rejected semi-presidentialism, which would have offered some degree of independent authority to a prime minister. Thus, Rhee’s centralisation of power in an ‘imperial presidency’ in effect established path dependency and still influences the contemporary presidential system.

The post-transition 1987 Constitution (not since amended) outlines the features of the semi-parliamentary presidential system as follows: legislative bills can be put forward directly by the president-led executive or by groups of at least ten parliamentarians. As long as the president’s party controls the majority of parliamentary seats (pre-2012) or a three-fifths majority (post-2012), the president enjoys full agenda-setting power.⁵ Such clear-cut majorities are described as ‘unified government’ owing to the fact that presidential parties in the National Assembly have usually been highly disciplined and willing to follow the president’s agenda setting. Presidential legislative initiatives enjoy privileges when compared with ordinary parliamentary legislative initiatives. They are usually more significant in terms of policy scope and more likely to be adopted. Between 1987 and 2020, 80.1 per cent of executive bills were adopted, while only 33.5 per cent of legislators’ bills were passed.⁶

The presidency’s leading role in the government of South Korea is stated in Articles 66 and 74, which affirm the president’s control of domestic, foreign and defence policy.⁷ The

³G. Henderson, *Korea. The Politics of the Vortex*, Cambridge MA., Harvard University Press, 1968, chs. 6–10.

⁴*Ibid.*, p. 158.

⁵W.-j. Moon, ‘Presidential power and executive dominance in law production in South Korea’, in C.-h. Kim, ed., *The New Dynamics of Democracy in South Korea*, London, Routledge, 2021, pp. 159–82, at pp. 164–8.

⁶*Ibid.*, p. 173.

⁷For current and subsequent references, see the text of the South Korean Constitution; https://elaw.klri.re.kr/eng_service/lawView.do?hseq=1&lang=KOR

¹H. B. Mosler, ‘Political structure changes in South Korea since 1948’, in S.-j. Lim and N. J. P. Alford, eds., *Routledge Handbook of Contemporary South Korea*, London, Routledge, 2021, pp. 45–64. Only the short-lived second Republic (1960–1961), destroyed by the military coup of 1961, was based on a parliamentary cabinet system headed by a prime minister.

²W. Paik, ‘The Korean system of bureaucracy’, in K. K. Tummala, ed., *Comparative Bureaucratic Systems*, Lanham MD, Lexington Books, 2003, pp. 185–205 (at p. 195).

president also puts forward the annual budget and Article 57 severely limits parliamentary scrutiny in stating that the National Assembly 'shall, without the consent of the executive, neither increase the sum of any item of expenditure nor create any new items of expenditure in the budget submitted by the Executive'. Moreover, the president appoints and dismisses the prime minister and all other cabinet members. Article 87, Clause 1 states that cabinet members 'shall be appointed by the President on the recommendation of the Prime Minister'. However, this constitutional provision is in fact ignored, since the prime minister does not enjoy any independence from the president with regard to personnel selection or any other substantial policy matter.⁸ Article 89 outlines the role of cabinet governance (referred to as 'State Council' in the Constitution) mentioning seventeen policy fields that are subject to cabinet deliberation. The presidential appointments for prime minister and other cabinet positions are subject to parliamentary 'confirmation hearings'. These have over time gained a deserved reputation for severely scrutinising the past personal and professional lives of cabinet candidates and are considered to be one of the major venues for parliamentarians to criticise presidential policies. Nevertheless, the president only requires parliamentary approval for the position of prime minister, while other cabinet appointments can be made regardless of parliamentary objections. Another crucial element of the presidential dominance vis-à-vis the prime minister and the cabinet is that the latter are normally only appointed for fairly short office terms (two, three or more sequential appointments for each ministerial position during a single five-year presidency are common).

Overall, presidential powers concern the control of institutions, legislative processes and personnel decisions. According to the Constitution, the president has the right to appoint the heads of the Board of Audit and Inspection and of the National Election Commission. S/he also selects the Chief Justice of

the Supreme Court and the President of the Constitutional Court, although the consent of parliament is required in both cases. The nine members of the Constitutional Court are appointed according to a mixed formula, allowing the president, parliament and the President of the Supreme Court three nominations each. However, this does not question presidential dominance given that the president's party in parliament participates in the parliamentary nominations and the President of the Supreme Court is itself nominated by the president. Additionally, according to Articles 76, 72 and 128, the president can govern by issuing presidential decrees bypassing parliament and is entitled to call national and constitutional referendums (the latter only with two-thirds majority support in parliament).

With regard to personnel appointments, leadership positions in the entire public sector, including the military, are reallocated along lines of political loyalty after each presidential election. The new president appoints the top leadership of the prosecution service, police force, National Tax Service, intelligence service (NIS), Board of Audit and Inspection, and the governor of the Bank of Korea. According to long-term observers, direct presidential appointments concern 7,000 top positions, while another 18,000 positions are indirectly affected. In practice, new political appointments at the head of each institutional pyramid trigger further rounds of new appointments at lower levels, since the new leaders wish to create their own fiefdoms.⁹ Last but not least, state institutions, ministries and the public sector are 'shadowed' by parallel structures in the presidential office. For this purpose, the president appoints 'senior presidential secretaries' who are not subject to parliamentary confirmation hearings (and are also not mentioned in the Constitution). These secretaries serve as presidential 'muscle' in supervising state institutions and help to enforce presidential policies. According to one observer, '[i]t is common knowledge that important policy-making has been monopolised by the chief secretaries in the Executive Office of the President (EOP), even though it is regulated by law that the nation's important

⁸The liberal President Roh-Moo-hyun (2003–2008) indicated that he was voluntarily willing to grant the Prime Minister a more independent role (that is, short of formally amending the Constitution). However, this has not been implemented.

⁹M.-s. Kim, 'Uneasy look at Yoon's new office in Yongsan', *Korea Herald*, 16 June 2022.

policies should be formulated through cabinet meetings and implemented by the relevant administrative branches'.¹⁰

To sum up, South Korea's presidential powers continue to be more far-reaching in comparison to all other liberal democratic OECD countries with presidential systems. Past comparative research further suggested that the power resources of South Korea's presidency are comparable with authoritarian or semi-democratic presidential regimes in Latin America.¹¹ Such less than complimentary observations suggest that further constitutional reform in favour of a more balanced political system remains desirable.

Limits on presidentialism: countervailing factors

It would be misleading, however, to present South Korean politics as purely presidentialist. Since the democratic transition in 1987, countervailing institutions increasingly gained in significance. Recent observers therefore stress the 'Janus-faced' nature of the presidency in a complex institutional environment that becomes much more difficult to navigate from any single point of authority. The most significant countervailing factors on presidential authority are as follows: (1) presidential power is subject to the time factor and declines in later stages of the tenure; (2) the growth of political and economic bodies with an independent power base limit presidential autonomy; (3) institutional reforms have strengthened the role of parliament; (4) long-term political cleavages such as regionalism further limit the ability of the president to impose policies successfully.

To begin with, the post-1987 single-term presidencies always follow a political cycle from emperor to lame duck. In the early 'honeymoon' period, parliamentarians (particularly the members of the president's own

party) and other public sector actors support presidential agenda setting. They owe their own position to presidential endorsement and serve the president in an effort to advance their own objectives.¹² Once the presidential authority begins to erode, however, this overlap of interest between the president and his/her appointees also declines, since the president's ability to offer protection and patronage collapses. Another significant issue concerns the fate of presidents after leaving office. Since 1988, all former presidents have been either jailed for corruption or had family members jailed for economic crimes. One former president committed suicide. At the moment of writing, Moon Jae-in is the only former president who has managed to leave office with his reputation largely intact.

Second, the most important structural factor limiting presidential powers is that presidents depend on the collaboration of longstanding networks of influence. In this sense, the president is little more than a mediator between the permanent stakeholders in South Korea's system, namely the chaebol led business community, and other semi-closed elite groups. It has been observed that the president-led executive 'reproduces exclusive, cartelized political structures that serve to shield the vested interests of the political class, and thus tend to inhibit further democratic consolidation and deepening'.¹³ This statement also applies to the relationship between the president and the chaebol led business community. While each new president enjoys the power to restructure completely the leadership of the public sector, this does not directly affect the private sector. In fact, private sector actors might offer their own personnel to serve in presidential administrations. This landscape of influence consists of business networks, privately owned universities and chaebol financed think tanks providing a 'permanent personnel pool' of potential government executives. Many of its members are willing to serve both political 'camps', namely liberal and conservative presidencies. The circulation of elites is therefore limited because

¹⁰J.-s. Yoo, 'The President, the separation of powers and the National Government Organization Act', *Public Law*, vol. 31, no. 2, 2002, pp. 421–436. While this quote refers to an earlier presidency, it still applies today.

¹¹M. S. Shugart and J. M. Carey, *Presidents and Assemblies. Constitutional Design and Electoral Dynamics*, Cambridge, Cambridge University Press, 1992, pp. 140, 142.

¹²J.-s. Bae and S.-y. Park, 'Janus face: the imperial but fragile presidency in South Korea', *Asian Education and Development Studies*, vol. 7, no. 4, 2018, pp. 426–37.

¹³Mosler, 'Political structure changes', p. 47.

recruitment networks are in turn closed to outsiders. To put it differently, the recruitment function of political parties and partisanship along ideological lines is much less significant compared with other OECD democracies with a more developed party system.

Third, various institutional reforms have affected the relationship between the president, political parties and parliament. These have incrementally strengthened the relative autonomy of parties and parliament vis-à-vis the presidency (although from a low starting point). Such reforms were initially owing to decisions of liberal presidents Kim Dae-jung (1998–2003) and Roh Moo-hyun (2003–2008). The former reduced his interference in the selection of parliamentary candidates of the president's party, while the latter additionally gave up the chairmanship of the presidential party on assuming the presidency.¹⁴ These two reform steps became fixed conventions in the liberal and conservative parties and are now generally observed. Such institutional separation between the president in office and his or her respective party weakens the direct control of the president over parliamentary and party business. Conversely, presidential candidates must no longer necessarily serve previous periods as party leader. Moon Jae-in only became party leader of the liberals after he had previously lost his first presidential contest against Park Geun-hye in 2012. In the case of the current president, Yoon, his official relationship with the conservative party is very recent: he only joined the party in July 2021, soon before he became the party's presidential candidate and less than eight months before winning the presidential election.

As for institutional changes in the relationship between presidency and parliament, the presidential five-year term is not aligned with the four-year parliamentary election cycle. This results in changes in the composition of parliament during every presidency. The parliamentary elections therefore serve as 'mid-term' feedback on the president's performance, although at different points in time during each presidential cycle. If the president's party does not hold, or loses, the majority in parliament, this

condition is referred to as 'divided government' in the Korean context. (President Yoon currently suffers from this condition since the liberals won the last parliamentary election of April 2020 and hold 172 out of 300 seats, while Yoon's conservative party only controls 110 seats).

In terms of contestation over power in parliament, the 2012 National Assembly Advancement Act (subsequently referred to as 2012 reform) was a crucial step to prop up the authority of members of parliament and to enforce bipartisan parliamentary cooperation under certain conditions. The reform was initiated by the conservative party during the conservative Lee Myung-bak presidency (2008–13). Before the 2012 National Assembly election, President Lee suffered from 'lame duck' syndrome during the later stage of his presidency. Fearing that a victory of the liberals in the parliamentary election would allow them to block his remaining political agenda with a simple majority, the 2012 reform changed the decision-making process in parliament.

Before the 2012 reform, the president could instruct the National Assembly speaker (as long as the speaker belonged to his/her party) to fast track legislation, which meant overriding the opposition. After the 2012 reform, this right of the speaker was reduced in cases where the presidential party does not hold a three-fifth parliamentary majority. The overall result of the reform was to reduce the agenda-setting power of the president. In many cases, consent of three-fifths of parliamentarians became necessary to fast track legislation. Thus, bipartisan negotiations to advance parliamentary legislation became normalised.¹⁵

Fourth, other structural factors further limit the agenda-setting powers of South Korean presidents. The country's party system remains underdeveloped in the sense that liberal and conservative parties are subject to almost permanent splits and fusions. No stable hegemony of any political party has existed

¹⁵Moon, 'Presidential power and executive dominance', pp. 160, 165–6. See also Article 85–2 of the National Assembly Act. Some key positions in the National Assembly, such as the position of Assembly speaker and the chair of the Legislation and Judiciary Committee, which has the power to deliberate and approve bills before they are put to a floor vote, are heavily contested and enjoy power resources that are independent from the presidency.

¹⁴H.-j. Lee, 'Monopolizing authority: the construction of presidential power in South Korea', *Korean Studies*, no. 46, 2022, University of Hawai'i Press, pp. 195–226.

post-1987. Political competition is intense at all times and changes in party names in efforts at rebranding occur frequently. The conservative party, at present named People Power Party, claims around 3.5 million members, while the liberal party, currently named Democratic Party of Korea, claims around 4 million members. However, these figures only indicate the number of participants in pre-election contests—such as using one’s smartphone to participate in pre-selecting candidates for elections. The actual number of fee-paying members according to the latest available 2020 data of the National Election Commission is 347,000 in the case of the conservatives and 896,000 in case of the liberals. The third party, the leftist Justice Party, enjoys a closer link between claimed (53,000) and fee-paying members (40,000). However, the membership figures still severely understate the internal fragmentation of Korean parties along factional and regional lines. In many cases, internal party life does not extend beyond efforts of individual candidates for public office to organise their own support structures.

When sketching countervailing factors balancing presidential power, one must also mention political regionalism. Since the crucial 1987 presidential election, the south western Honam region has always supported liberal presidential candidates and parties, while the south eastern Yeongnam region tends to support conservative candidates. This clear-cut regional division—not present in the rest of the country—has been reproduced in every election since 1987. In the Korean context, political regionalism is an interesting example for the ‘invention of tradition’. It largely derived from the way in which the candidates in the 1987 presidential election related to particular regional support bases.¹⁶ The overall significance of entrenched regionalism is that it works as a limiting factor in efforts at national agenda setting.

Taken together, the sketched structural and institutional factors, particularly the political cycle of the presidency, the independent

power of private sector actors, the growth of parliamentary influence and regionalism, all amount to countervailing influences limiting the power of the presidency. In this sense, the presidency is no longer as imperial as it once was.

The trajectory of the Moon Jae-in presidency (2017–2022)

The trajectory of the Moon presidency illustrates the political cycle associated with Korea’s highest state office. Moon’s track record as chief of staff of the previous liberal president, Roh Moo-hyun, between 2007 and 2008, and subsequently as a liberal member of parliament, facilitated his first candidacy for the presidency in 2012, when he was narrowly defeated by the conservative candidate, Park Geun-hye, the daughter of military coup leader and long-term authoritarian president Park Chung-hee (1963–79). The Park Geun-hye presidency quickly faced a dramatic collapse of confidence, however, when the Korean ferry Sewol sunk in 2014 resulting in the death of 304 passengers.¹⁷ Park was accused of having been unavailable to supervise the rescue effort, which would have been part of her duties as president in charge of central emergency rescue bodies. In 2016, she was further accused of having allowed a personal friend without any official role or security clearance to interfere with state business on her behalf and to tolerate the misuse of state funds.

In reaction to these events, the so-called ‘candlelight movement’ took off between October 2016 and March 2017. Protesters demanded Park’s resignation, announcing that the rallies would not cease until she was gone. These weekly protests, combined with the total collapse of Park in opinion polls, succeeded in forcing a vote of no confidence in parliament, which was subsequently confirmed by the Constitutional Court. The candlelight movement received much praise for its peaceful character and participants’ patience in

¹⁶K.-d. Kim, *Korean Modernization and Uneven Development: Alternative Sociological Accounts*, Basingstoke, Palgrave Macmillan, 2017, pp. 175–6; E. Moberg, *Top-Down Democracy in South Korea*, Seattle, University of Washington Press, 2019, pp. 70–5.

¹⁷J. M. Dostal, H.-j. Kim and A. Ringstad, ‘A historical-institutional analysis of the MV Sewol and MS Estonia tragedies: policy lessons from Sweden for South Korea’, *Korean Journal of Policy Studies*, vol. 30, no. 1, 2015, pp. 35–71.

slowly, but steadily, forcing the president out of office. The protest's central slogan, 'Is this a country?', questioned whether state structures 'had been rotten inside beneath a sound appearance'.¹⁸ The movement's unity arguably meant there were no real efforts to create more durable political structures to push for long-term structural change in society. In this sense, the candlelight demonstrators failed to overcome the paradox of South Korean society, namely that people are highly connected by technological means and, at the same time, highly atomised owing to extreme competition for social status and material rewards. The country's societal condition of hyper competition as a result of the absence of a comprehensive welfare state and the decline of traditional structures of solidarity was implicitly criticised.¹⁹ Yet, the movement dissolved as soon as Park had been removed from office, leaving behind no grassroots structures that could have sustained a coalition for progressive change.

Thus, Moon's subsequent electoral success in the 2017 presidential election came with the expectation that the liberal administration would pursue substantial structural reforms of state and society. However, Moon's presidency and his effort at constitutional reform ran out of steam early on, not least owing to his contested personnel decisions. His administration recruited heavily from liberal pressure groups, such as Lawyers for a Democratic Society (Minbyun) and from academic strata (including non-Seoul based academics). In the first period of his presidency, Moon gave high prominence to Cho Guk, a law scholar and academic, who served first as senior presidential secretary for civil affairs between 2017 and 2019 and was then nominated for justice minister. This nomination proved to be a mistake because of ethical lapses on Cho's part, essentially falsifying

documents that facilitated his daughter's subsequent academic career. His wife and daughter were later indicted and his wife was sentenced to a prison term for parallel economic offences. The Cho family affair highlighted that ethical lapses are widespread in Korean society and exist across the political spectrum. Arguably, Cho suffered from particularly harsh treatment by the conservative media, but this damage was partially self-inflicted. The collapse of the Moon-Cho team (Cho was forced to resign after only thirty-five days as justice minister in mid-October 2019) amounted to a substantial personal defeat for Moon.

Moon's effort at constitutional reform, officially announced by Cho on 22 March 2018, included numerous initiatives to update and improve the political and administrative systems. The most prominent of these was to introduce two consecutive four-year presidential terms in line with the US example. In case of no candidate gaining more than 50 per cent of the vote, a second-round of voting between the two presidential frontrunners was proposed. The voting age should be reduced from nineteen to eighteen and proportional representation principles strengthened in the electoral formula for parliamentary elections. Further suggestions concerned the strengthening of the subsidiary principle (more local government autonomy), amending the way in which Supreme Court judges were selected and removing the Board of Audit and Inspection from presidential supervision. Finally, the right to grant amnesties should be transferred from the president to a commission body.²⁰

Around the same time, a parliamentary reform commission and the conservative opposition also put forward reform proposals. The parliamentary commission naturally focussed on strengthening the role of parliament, the core proposals being to abolish the president's right to initiate legislation directly and to introduce a new bicameral legislature with regions being represented in an upper

¹⁸S.-g. Kang, 'Candlelight demonstrators and the presidential impeachment in South Korea. An evaluation of the 30 years of democracy', *Asian Education and Development Studies*, vol. 8, no. 3, 2019, pp. 256–67.

¹⁹S.-d. Kang, 'Democracy without workers: the "work society" in Korea after democratization', in H. B. Mosler, E.-j. Lee, and H.-j. Kim, eds., *The Quality of Democracy in Korea. Three Decades After Democratization*, Cham, Palgrave, 2018, pp. 207–36.

²⁰J.-c. Kim, 'Presidential proposal for constitutional revision in South Korea: unlikely to be passed but significant step forward', 16 May 2018; <https://constitutionnet.org/news/presidential-proposal-constitutional-revision-south-korea-unlikely-to-be-passed-significant-step>

house or senate. According to this proposal, the lower house would be elected along proportional representation lines, while the upper house would be based on regional autonomy principles.²¹ Finally, the conservative proposal focussed on introducing semi-presidentialism along lines similar to the French system—with the president focussing on foreign policy and the prime minister on domestic affairs. The role of the prime minister would be substantially strengthened by his/her direct election in the parliament. Increasing proportional representation in parliamentary elections was also supported, while bicameralism was rejected. The three proposals overlapped with regard to efforts to cut down the imperial presidency. Realistically, however, there was no incentive for the conservative opposition to agree to any compromise on constitutional reform with Moon, since the president would have taken the lion's share of credit. Instead, the conservatives boycotted the relevant parliamentary session, focussing instead on scandalising the role of Cho and his ethics problems. In the end, all three proposals failed, since the statutory deadline passed without any vote in parliament.

Moon's failure on constitutional reform was balanced out to a certain extent by successful single-issue initiatives. These concerned a substantial increase in the minimum wage and the introduction of the mandatory fifty-two-hour working week. There were also efforts to introduce a carbon neutral agenda and to reduce the country's reliance on nuclear energy. With regard to intra-Korean and foreign affairs, President Moon managed competing objectives in an appropriate manner. Crucially, he avoided being drawn into issues of US-China regional competition, while making efforts to improve the relationship with North Korea. Realistically, this policy of intra-Korean summitry was never likely to achieve more than confirming the geopolitical status quo.

Any overall assessment of Moon's track record in office confirms that presidential agenda-setting power is limited and erodes

substantially in the latter stages of the presidency once the lame duck syndrome sets in. This general pattern held, despite the clear-cut victory of the liberal camp in the National Assembly elections on 15 April 2020. On this occasion, the liberals won a three-fifths majority of parliamentary seats. This success would have theoretically allowed for a second push of constitutional reform plans. However, the window of opportunity for ambitious agenda setting had already closed. In particular, the Moon administration's failure to deal effectively with the rise in house prices and housing costs, and the parallel success of the conservatives in recruiting the Moon-appointed prosecutor general Yoon Suk-yeol as their presidential candidate, quickly buried any hope of a second coming of liberal reform ambitions. In the end, Moon had to concede that his domestic achievements were limited when acknowledging that 'I am somber over how much our government has responded to the aspirations of the candlelight vigils that demanded a nation that is like a proper nation ... However, even if our government failed to achieve everything, the people's aspiration for a proper nation will never stop'.²² The fact that Moon was able to leave office without any major scandals was in itself a real achievement, given that all recent presidents faced substantial legal challenges, convictions and even prison spells after leaving office.

The presidential election of 2022 and the start of the Yoon Presidency

The 2022 presidential election placed the liberal candidate, Lee Jae-myung, against the conservative contender, Yoon Suk-yeol. Lee, a trained lawyer, had spent most of his life as a career politician, acting first as a city mayor and later as governor of Gyeonggi province. In his presidential campaign, Lee stressed his modest social origins and commitment to a 'fairness' agenda while attacking economic polarisation as the main threat to Korea's future. Crucially, Lee failed to answer the most urgent question about what he would do to control escalating housing costs, thereby not

²¹For further discussion, see H. B. Mosler, 'Characteristics and challenges of South Korea's presidential government system', in H. B. Mosler, ed., *South Korea's Democracy Challenge. Political System, Political Economy, and Political Society*, Berlin, Peter Lang, 2020, pp. 26–66, at pp. 52–6.

²²S. Kim, 'Moon touts his highs, regrets too few to mention', *Korea JoongAng Daily*, 10 May 2022.

clarifying how his policies would differ from those of the outgoing Moon administration.

Candidate Yoon brought to the presidential race a twenty-six-year career in the prosecution service. Under the Park Geun-hye administration, he had suffered a series of demotions. His career recovered in 2017 when he was appointed by President Moon to head the Seoul Central District Prosecutors' Office. In this role, he oversaw investigations and subsequent indictments of the two previous conservative presidents, Park Geun-hye and Lee Myung-bak. He was subsequently promoted to prosecutor general in July 2019. However, Moon and Yoon fell out once Yoon utilised his new position to target Moon's then justice minister, Cho Kuk, and his family for investigations. Yoon assumed the position of an independent actor, upholding the principle of the rule of law over any particular political allegiance. In a further manoeuvre, Yoon started appealing to the conservatives by assuming the position of crown witness for alleged power abuses during the Moon administration.

In mid-2021 the conservative party was first and foremost interested in finding a candidate who would allow the party a fighting chance to regain the presidency in 2022. At this time, the only high-profile potential conservative candidate was Hong Joon-pyo, the mayor of Daegu. Hong had previously lost the presidential election of 2017 as the conservative candidate, with only 24 per cent of the vote, and his hard-right profile was unlikely to attract centrist voters. Thus, Yoon appeared the more promising candidate and he duly defeated Hong in the conservative pre-election contest, which resulted in his official endorsement as conservative presidential candidate in November 2021. By now, there was certainly no love left between Yoon and his former patron, Moon. Yoon stressed that his candidacy was motivated by a desire to 'stop a candidate backed by the corrupt, incompetent [Moon] administration ... [keen] to extend their rule to further plunder the people'.²³ Yoon's harsh political rhetoric subsequently produced the most antagonistic presidential campaign in recent memory. The two candidates, Lee and Yoon, routinely threatened to

prosecute each other if they were to win the contest.

Throughout the campaign, opinion polls suggested that voters considered Lee more competent with regard to economic and social issues. By contrast, Yoon was able to convince the electorate with his housing policy promises and regarding foreign affairs and national security.²⁴ However, Yoon opened a new field of contestation when he claimed that young men faced structural discrimination with regard to university education and job opportunities because of their obligatory military service. He demanded that time spent in the military should be considered in public exam contexts—by granting extra credit—while draftees should also receive increased pay. This effort to appeal to young male voters triggered a parallel shift on the part of young female voters to favour the liberal candidate, not least because gender inequality and structural disadvantages for women in South Korea continue to be very pronounced. The sudden political prominence of the 'gender cleavage' underscored the fact that declining social mobility in the country might well set angry young men against angry young women. However, gender-based mobilisation and counter mobilisation did not deliver any clear-cut competitive edge to either of the candidates.

The outcome of the election confirmed the political significance of age cohorts in Korean politics. Voters in their twenties and thirties were fairly equally divided between the liberal and conservative camps, which meant that support for liberals had been eroded in comparison to earlier elections. Voters in their forties and fifties supported the liberal candidate, while elderly voters retained their traditional conservative posture. Regionalism remained significant: the liberal candidate, Lee, received between 83 and 86 per cent in different districts of the Honam region. Ultimately, minor losses of the liberal candidate in the capital, Seoul, in comparison to the 2017 election, decided the contest for Yoon. This highlighted the failure of the liberals to find adequate policies with regard to housing

²³M.-j. Ser, 'Yoon is running for president', *Korea JoongAng Daily*, 30 June 2021.

²⁴M.-y. Kwon, 'Housing, real estate policies to impact election results most', *Korea Times*, 21 February 2022.

costs and to address the concerns of younger voters.

Post-election, the apparent political alliance between Yoon and Ahn quickly fizzled out. Yoon appointed Ahn as chairman of his presidential transition committee, but subsequently ignored all the latter's suggestions for appointments in the new administration. It became clear that there would be no 'coalition government' of any sort. Instead, the defeated liberal Lee and centrist Ahn both gained seats in parliamentary by-elections held soon after the presidential contest, meaning that they would retain a voice in future policy debates and potentially prepare new presidential bids in 2027. For his part, Yoon experienced trouble recruiting adequate personnel for his new administration. It became clear that his own network was limited to fellow prosecutors and fellow graduates from Seoul National University (SNU), the largest public research university.

As a result, almost all senior posts in ministries and institutions were assigned to men in their fifties or older who frequently hold SNU degrees. This appointment policy was criticised as amounting to a 'republic of prosecutors' and for failing to include female appointees. Reacting to this criticism, Yoon subsequently invited a very small number of women into his cabinet. Overall, the new administration appears to represent the return of the *ancien régime* in the sense that many people who had previously held positions during earlier conservative presidencies were re-appointed. In this way, Yoon strengthened his own position vis-à-vis the conservative party and satisfied the conservative establishment.

In terms of policy making, the Yoon administration immediately reversed the policies of the previous Moon administration. In particular, working hours are to be deregulated and corporate taxes lowered to the level that had been in place under the previous conservative presidency. With regard to the critical housing issue, the new administration plans to reduce real estate taxes for existing home owners, while expanding the supply of new apartments in the greater Seoul area. The new construction programme is supposed to be led by government-owned developers and will target first-time buyers with apartment prices

that are set below the current market value.²⁵ How these plans will be delivered in the context of the current economic circumstances of high inflation and rising interest rates remains an open question.

The major economic challenge of the new administration is also geopolitical: the Biden administration is keen to exclude China from supply chains in various strategic industries. This would negatively affect South Korea, since the country relies on China for a large share of critical imports. Moreover, South Korea's semiconductor industry invested heavily in China in recent decades and now faces exclusionary measures from the US side.²⁶ This puts intense pressure on South Korean manufacturers to pick sides, which amounts in some circumstances to following the US as its geopolitical patron, while totally or partially losing previous Chinese investments. This basic dilemma will keep the Yoon administration busy for the foreseeable future.

At the domestic level, the most critical event early on in the Yoon presidency was the crowd crush which occurred during Halloween festivities in the Itaewon neighbourhood of Seoul on 29 October 2022, when 158 young party-goers died. In the aftermath of the disaster, it quickly transpired that the police had received numerous phone calls from members of the public warning about the dangerous situation. The police failed, however, to react adequately.²⁷ After the disaster, a number of police officials resigned owing to their role in mismanaging events and investigations are ongoing. So far, the Yoon administration has managed to deal with the political fallout of the disaster without accepting any direct blame.

President Yoon has so far failed to establish any vision of what he wants to achieve and at the end of 2022, his administration faced a low standing in the opinion polls without having had any previous honeymoon period. Before entering office, Yoon cultivated the posture of a 'non-political politician' and his

²⁵H.-j. Lee, '500,000 homes promised by government', *Korea JoongAng Daily*, 27 October 2022.

²⁶Y.-s. Kim, 'Chip firms invested 10 times more in China than US: lawmaker', *Korea Herald*, 24 October 2022.

²⁷S.-h. Choe, 'Police expected the Halloween crowd. Why couldn't they stop the disaster?', *New York Times*, 17 November 2022.

ideology was limited to a Milton Friedman-style admiration of small states and free markets. Nine months into office, his ambitions remain unclear, or at least unstated. To be fair, the international policy indicators are difficult to navigate and practically all OECD governments currently suffer from a crisis of confidence. But, Yoon needs to indicate how he understands his own role beyond removing the policies of the previous administration. Merely shifting from reform to counter reform is not going to address the structural problems of South Korea. It once again raises the question of whether the imperial presidency system is still appropriate for governing the country thirty-five years after democratisation, or is simply old-fashioned and out of touch.

Conclusion

The basic puzzle of South Korean politics is why the lengthy, even endless, debate about constitutional reform never produces any substantial results. Under the previous Moon presidency, the reform debate once again delivered only minor outcomes. The legal voting age was lowered to eighteen from nineteen and the method of distributing seats in parliamentary elections was reformed in a manner that was claimed to better reflect the vote share and increase the presence of minor parties. In fact, the electoral reform did not change the basic electoral formula which distributes 253 seats according to the first past the post principle, favouring large parties, while only forty-seven seats are allocated according to proportional representation. The newly introduced 'compensatory system' was supposed to offer smaller parties a larger share of parliamentary seats.²⁸ However, this proclaimed purpose was immediately subverted by both major parties, both of which founded so-called 'satellite parties' in order to maximise their seats under the new electoral formula. Post-reform, the representation of minor parties in parliament declined further, highlighting how the two main parties are keen to avoid changes in electoral rules that would affect them negatively.

²⁸S.-j. Hwang, 'How does South Korea's new election system work?', 15 April 2020; <https://keia.org/the-peninsula/how-does-south-koreas-new-election-system-work/>

What can be deduced from the behaviour of the two major parties with regard to electoral reform is highly relevant for answering the broader question of why constitutional reform keeps failing. Liberals and conservatives both enjoy privileges from the current deeply dysfunctional system and the 'winner takes all' principle of the imperial presidency perpetuates the dominance of the two-party system. To put it differently, constitutional reform falls victim to a Korean-style 'joint decision trap'. In theory, the two main parties could cooperate to strengthen the role of parliament vis-à-vis the presidency. Yet, efforts at changing the electoral formula to increase the representativeness of parliament, namely shifting to proportional representation rules, would immediately activate latent political cleavages in the country. It would almost certainly produce splits within the existing liberal and conservative camps, thereby ending the Korean version of 'catch-all' parties. In particular, regional and ideological parties would become electorally more viable, issuing in a new multiparty system and coalition governments. Under such a scenario, the presidency would no longer act as the ultimate referee in national policy making.

Thus, major constitutional and/or electoral reform could produce a more functional and inclusive way of organising the South Korean polity, but the relevant actors lack the courage to change and ultimately prefer the 'devil they know'. The 'joint decision trap' still blocks large- and small-scale reform scenarios alike. The current party and election laws are a critical case in point. They are highly restrictive on smaller parties by demanding high deposits to participate in elections, deposits that are lost in the case of failure to reach a certain vote share. These regulations impose high barriers of entry on minor and new political parties, thereby maintaining the status quo. In fact, liberal and conservative party leaders are both keen to avoid the emergence of a multiparty system. They certainly worry that substantial constitutional and electoral reforms would remove their existing veto powers and issue in a more decentralised and pluralistic political system.

To sum up, one might suggest that the imperial presidency works as a shield for the existing stakeholders to fight off challenges to the status quo. It might be dysfunctional, old-fashioned and unable to sustain long-term

political projects of any kind. But it serves the existing stakeholders in running a system that excludes outsiders and newcomers. Last but not least, defenders of the status quo can always claim that national security would be negatively affected by a less-centralised political system. These points, taken together,

suggest that the imperial presidency will continue to exist for the time being since a committed coalition for change is nowhere to be seen.

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