People's Participation in Korea
Formality or Reality?

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PART III

Chapter 33

People’s Participation in Korea: Formality or Reality?

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Introduction

Public participation in the policy-making or implementation process is both reasonable and essential in the light of the constitutional concept cited above. In recent years, various legal systems have been introduced to ensure people’s participation in Korea.

However, most public participation systems in Korea are designed to legitimate many governmental policies that have already been established, rather than to make people’s participation easier in the policy-making or implementation process. In this regard, it is crucial to find a way to facilitate more active and effective people’s participation in the policy-making or implementation process in Korea.

This contribution briefly reviews some elements of the legal framework which fosters transparency and people’s participation. It also raises some issues for future agendas and provides some suggestions for the enhancement of transparency in the conduct of public affairs and for the increase of people’s participation in the policy-making and implementation process.

Korea’s participation framework

The Freedom of Information Act, the Residents’ Recall Act, the Residents’ Suit Act and the Participatory Budgeting System are among the main laws and practices underpinning public participation in Korea.

- The Freedom of Information Act of January 1998 requires that the administrative institutions, local governments, and the like, should openly disclose their information and archives to the public. According to the 2006 Annual Report on Information Disclosure, a total of 150,582 items of information were requested of which 106,423 (70.5%) were disclosed.

- The Residents’ Recall Act of May 2007 allows the public to claim a recall vote when local officials, mayors, provincial governors, or local assemblymen make unlawful decisions or when they are corrupt. The results of the vote determine whether they will be expelled from public office or not. The Residents’ Recall Act took effect in July 2007 and the first recall vote was conducted in December 2007, in Hanam City, Gyung-gi Province. This vote led to two local assemblymen being recalled.

- The Residents’ Suit Act of January 2006 also allows local residents to check any illegal budget execution of their local governments. It is based on public interest litigation and thus admits local residents as plaintiffs. Local residents are able to deal with illegal civic
affairs in court, regardless of whether their individual rights and interests have been infringed. In this way, local residents can protect the common interests of the community from local governments.

- The Participatory Budgeting System ensures public participation in the budget preparation process of local government. It allows local residents to exercise the right to participate in local budget planning, which was once the exclusive preserve of local governments. In 2004, the Northern District (Buk-gu) of Gwangju Metropolitan City carried out the first case of Participatory Budgeting in Korea (see Part II for a detailed case study). To date, about 40 local governments have adopted this system.

Future agendas

Although some institutional changes have been introduced, it can definitely be said that the prerequisites for both participation and transparency are still far too complicated and strict. It is also true that people's participation has tended to end up more as a formality than a reality. It is, thus, necessary not only to adopt new institutional arrangements but also to complement and reinforce the current systems. The systems to be mended or to be newly adopted are as follows:

1. Strengthening Freedom of Information in practice

   The 1998 Freedom of Information Act in Korea has greatly enhanced the transparency of the policy-making process. In spite of its remarkable success, much important and critical information has yet to be disclosed. This hinders transparent policy-making processes. The lack of information on the policy-making process especially thwarts people's participation. The scope of closed and secret information should be curtailed, and the Act's vague provisions on this crucial aspect should be reviewed.

2. Adoption of a Taxpayer’s Lawsuit and National Participatory Budgeting

   It is expected that a Taxpayer’s Lawsuit would keep in check any unlawful budget execution of the central government. As mentioned before, it is also based upon public interest litigation that acknowledges the right of taxpayers to act as plaintiffs for the protection of the public interest. In addition, Participatory Budgeting has so far been practiced only at the local level. It should be extended to keep in check any waste and illegal budget execution of the central government. Finally, the conditions for the Residents’ Suit must be lightened in order to ensure more participation of local residents.

3. Adoption of a National Recall Act

   It is now possible to recall local assemblymen, mayors, and the provincial governors in Korea based upon the 2007 Residents’ Recall Act. But the possibility of initiating a recall against the members of the national assembly has not yet been enacted. A National Recall Act would be an additional democratic measure that would partially address the imperfections of representative democracy. It is crucial to adopt the Act, not only to expand people’s participation but to check corruption and unlawful decision-making by National Assembly members.

Conclusion

In Korea, several legal elements have been introduced to ensure people's participation and to improve the transparency of the policy-making and implementation process. However, in reality, the systems tend to bestow legitimacy upon governmental policies that
have already been formulated, rather than to ensure effective public participation in the policy process. It is clearly meaningless to solicit public input after the bureaucrats and the members of the National Assembly have settled all the important decisions. The most critical challenge is to change the attitude of the authorities in charge of the policy-making process.

In Korea, the adoption of complementary programmes is greatly needed in order to give greater substance to people’s participation in the policy process. The substantial participation of the people must be guaranteed through the introduction of direct democratic measures such as those indicated above.