

South Korea

Self-rule

Institutional depth and policy scope

South Korea is a unitary republic with three governance levels: the central state; provinces and metropolitan cities; and municipalities including smaller cities and counties (C 1987). The first subnational layer consists of eight *do* (provinces), six *gwangyeoksi* (metropolitan cities) which fall outside the jurisdiction of provinces, one *teukbyeolsi* (special city) which is the capital of Seoul, one *teukbyeol-jachisi* (special autonomous city) Sejong, and one *teukbyeoljachi-do* (special autonomous province), the island of Jeju (since 2006). The *do* are composed of different types of municipalities, including *si* (cities), *gun* (counties), *gu* (districts), *eup* (towns), *myeon* (townships), and *dong* (neighborhoods). At the most local level exist the *ri* (villages). We code the *do* and *gwangyeoksi* level, including the special autonomous province of Jeju, the special city of Seoul, and the special autonomous city of Sejong. Municipalities fall below our population criterion of 150,000.

Governance in Korea had traditionally been highly centralized despite deeply rooted regionalism. From the late nineteenth century to the end of World War II, local affairs were administered by field offices of the central government. However, after the Japanese (1910-45) and American (1945-8) occupation, the first independent constitution of 1948 broke with the past. It devoted two articles to territorial governance, which guarantees local autonomy within the limits of the law and executive ordinance (C 1948, Ch. 8, Art. 96-7; Choi and Wright 2004:

4). This constitutional guarantee provided the basis for the Local Autonomy Act of 1949, which remains to date the foundation for subnational governance. The Act created a two-tiered governance system, whereby *do* and Seoul were subject to central supervision, and the lower tier (*si, eup, myeon*) subject to supervision by the *do*. Both levels had directly elected assemblies. The lower-tier assemblies could appoint the local executive, while the *do* executive was centrally appointed.

The outbreak of civil war in 1950 suspended implementation. In 1952 the first elections for lower- and upper-level assemblies took place. However, except for education (Lee 1995: 46), these were not complemented with commensurate policy devolution (Ahn 2003; Choi and Wright 2004: 4-5; Lee 2003: 8-9). In 1958, the Local Autonomy Act was revised to substitute central appointment for direct elections.

In April 1960 protests overthrew the regime and ushered in the second republic which restored direct elections. But a military coup abruptly ended democratic rule in May 1961. Again, direct elections were abolished. The mayor of Seoul, the *do* governors, and the mayors of the larger municipalities (a population greater than 150,000) were appointed by the military junta, while mayors of smaller municipalities and other local executives were appointed by the governors. In September 1961, regional and local autonomy was officially abolished (Kim 2009: 135-6). Local affairs were controlled by the ministry of home affairs, which also controlled the police. *Do* governors were often former high military officers. Over the ensuing years, sectoral ministries strengthened their grip by setting up local deconcentrated offices (Bae 2007: 118-9). “Few governments in the world had so effective, pervasive, and controlled a hierarchical system reaching down so far into the society, one that was augmented by Korean social patterns”

(Steinberg 1989: 130). Local elected officials were removed (Steinberg 2000) and the move was formalized with the addition of a constitutional article that “the appropriate timing for restoring the local councils based on this constitution will be specified separately by other law.” A 1972 constitutional amendment hardened the conditions by stipulating that local councils could not be created until the Korean peninsula was reunified. Local autonomy was put on hold (Choi and Wright 2004: 6).

One exception to this pattern of military-rule centralization was the adoption in 1962 of the Act on Special Measures for the Administration of the Seoul Special Metropolitan Government, which established the unique status of the *teukbyeolsi*. The special Act placed the city directly under control of the Minister of Home Affairs and the mayor of Seoul was given a seat at the State Council (national cabinet) meetings. The underlying rationale for this was to provide more direct central control over economic development and over metropolitan infrastructural needs. The law did not provide for self-governing autonomy, and hence no additional authority of the *teukbyeolsi* is reflected in our scoring as long as mayors and governors are appointed by the central state.

Do, *gwangyeoksi*, and the *teukbyeolsi* score 2 on institutional depth and 1 on policy scope from 1952 to 1960, and 1 and 0 respectively from 1961 to 1986.

Spurred by massive student and labor protests throughout the 1980s, a transitional government came into power in 1987. Pro-democracy forces ran on a platform of restoring local autonomy. The 1987 constitution scrapped the reunification condition, and inserted provisions for subnational autonomy (C 1987, Art. 117-118). This opened the door for a string of revisions to the 1949 Local Autonomy Act.

Amendments to the Local Autonomy Act in 1988 laid the legal basis for real subnational autonomy, though no changes came into effect until 1991 (Choi and Wright 2004). First, subnational governance was re-arranged in two tiers, a first tier consisting of *do* (provinces), *teukbyeolsi* (Seoul), and *jik-hal-si* (meaning a city under the direct control of the central government), and a second tier consisting of *si* (city), *gun* (county), and metropolitan (autonomous) districts (Choi and Wright 2004: 7). In 1995 all of the *jikhalsi* (directly governed cities) were renamed *gwanyeoksi* (metropolitan cities). Second, there would be direct elections for all levels. Third, the Act sought to specify national, provincial, and local policy competences, but it retained a central veto over subnational decisions (Choi and Wright 2004).

The Local Autonomy Act set the frame for subnational decentralization (UNESCAP 2014), but implementation was slow. In 1991, a joint council for devolution, composed of academics, and central and subnational officials, was created to advise on the devolution of functions and tasks foreseen in the Act, but resistance from central agencies and departments impeded the process (Choi and Wright 2004). Only education was devolved right away when provincial and local councils could elect provincial school board members (Ahn 2003: 247; Lee 1995). And a law on health services created the framework for decentralization in local health (UNESCAP 2014; Chun et al. 2009: 33).

In 1999, the Law for the Promotion of Transfer of Central Authorities put in place a more transparent decentralization framework. It laid down a “subsidiarity logic, including a) preferential devolution of concurrent tasks; b) preferential devolution to the lowest feasible level; c) devolution of entire policies to subnational governments; d) restriction of central government’s role to nationwide policies or national standardization (Choi and Wright 2004).

According to the Law, subnational governments are responsible for delegated (or compulsory) affairs, which are attributed by specific laws, and for autonomous affairs. The list of autonomous affairs (Art. 9, Sec. 2), over which central government has only passive control, includes: organization and management of local governments; welfare, including childcare centers and assistance to the elderly, poor, handicapped, sick, and women; industrial development, including agriculture, forestry, and support for local industries; public utilities, including roads, water supply, and car parking; education, sports, culture, and art, including schools, libraries, gymnasiums, galleries, etc.; local civil defense and fire fighting (OECD 2001: 66). Hence this list includes economic, welfare, educational-cultural, as well as local government, though not immigration, local police or residual powers (Lee 2003: 14).

However, even now, central government continued to keep tight control over some 75 percent of functions (OECD 2001; Choi and Wright 2004), and central departments (and agencies) could not be compelled to decentralize—a limitation that is reflected in our coding from 1991 to 2002.^β

In 2004, a new sweeping decentralization law was passed which promised to devolve over 500 policy tasks, including control over police, to subnational authorities, abolish many central agencies, and importantly, deprived central departments and agencies of the discretion to block or delay decentralization. Its implementation too has been partial and slow, in part because the parliament has resisted government calls to bundle decentralization in an omnibus law (Bae 2007), with about 1500 central affairs devolved and a 40 percent local allocation tax increase as of 2007 (Kim 2009: 141).

In 2006, the Korean parliament passed the Special Act on Jeju Special Self-governing Province. This Act gives the island additional powers in economic development, control over local police (Act 7849, Art. 5, Sec. 1) and its own institutional setup (Art. 13, Sec. 1),¹ and it sets up a system that facilitates the devolution of further central tasks (except defense, diplomacy, justice). The goal is to set up Jeju as a free international city that can compete for investment and business with Hong Kong and Macau. Competence transfers remain subject to central government approval.² The Act has been amended multiple times, most recently in 2018, when it was comprehensively restructured. The Korean parliament retains control over the constitutional status of the free international city, and hence Jeju scores 2 on institutional depth. Jeju has a special dispensation on immigration in that nationals of most countries can enter the province without also having a visa for the South Korean mainland. However, control over this visa-free status remains in the hands of the central state.

In 2012, after five years of political debate over the process of its creation, the special self-governing city of Sejong was created as the future administrative capital of the country. Despite the title, it retained the same authority it held as one of the *gwangyeoksi*.

¹ In the revised Act, most recently amended in 2018, control over local police is specified under Article 5, Section 3 and control over own institutional set-up is specified under Article 8, Section 1.

² For a report on the process of establishing the parameters of Jeju self-governance: "Road to Autonomy," Jeju Government official documents.

<http://english.jeju.go.kr/index.php/contents/AboutJeju/government/autonomy/road>.

Fiscal autonomy

Taxation is regulated through the Local Tax Act. Since democratization and decentralization (from 1991) *do* can set the rate (within bands) of four minor taxes (acquisition, registration, regional development, educational development) (Lee 2003: 28-9). Some 80 percent of provincial and local revenues come from central grants or fixed shares of central taxes (e.g. income tax), but the share of provincial and local taxes has been increasing (Lee 2003: 30-1). In 2006, for example, local tax income was 32.6 percent, non-tax income 12 percent, the local allocation tax from the central government 18 percent, and central grants 35.6 percent, and income from borrowing 1.7 percent (Kim 2009: 450).

Jeju has its own tax regime with numerous exemptions on registration taxes, VAT, corporate taxation, and customs duties, which require approval by the ministry of home affairs (Act 7849, Ch. 9).

Borrowing autonomy

Do can raise money by issuing local bonds or by writing loan contracts, but article 115 of the Local Autonomy Act lays down strict conditions: borrowing is permitted for structural investment or to cope with natural disasters; and it requires approval by the ministry of government administration and home affairs (MOGAHA) as well as by provincial or local councils (OECD 2001: 79; Lee 2003: 52). The Local Finance Act lays down detailed conditions, down to which type of projects are eligible for financing through borrowing, and procedures for

issuing local bonds. The department of finance and economy also vets each request in return for a national guarantee.

Do, gwanyeoski, and local governments can borrow in domestic and international markets, but bonds and contracts need to be domestic. Borrowing is relatively minor (and declining), and in any case mostly on the basis of contracts concluded with the central government (Lee 2003: 53ff; Kim 2009). Though some *do, gwanyeoski*, and local governments borrowed during the authoritarian period, we do not score borrowing until provincial governments are decentralized, i.e. from 1991.^β

There do not appear to be less stringent regulations governing borrowing by Jeju, except that borrowing to fund development projects requires prior approval by the ministry for land, transport and maritime affairs (Act 7849, Art. 285).

Representation

The first subnational elections took place in 1952; the executive was appointed. In 1960, the second republic introduced direct elections for both assemblies and executives, but this lasted only until the 1961 coup. All direct elections were suspended from 1961 to 1990 (Lee 1996). Direct elections for provincial and local assemblies were reintroduced in 1991, with direct elections for governors and mayors introduced in 1995 (Seong 2000; Yang 2001). The special region of Jeju has a directly elected council and executive.

Shared rule

Law making

Subnational governments do not share authority over law making. There is no upper chamber, and the unicameral legislature distributes seats on the principle of population-based representation.

Jeju has some bilateral shared rule. The governor “may present his/her opinion on any matter he/she considers necessary to deliberate on legislation concerning the Province upon obtaining consent from two thirds of the incumbent Provincial Council Members” (Act 7849, Art. 9(1)). These views are presented to a “Supporting Committee,” a thirty-member body comprised of heads of departments and headed by the prime minister, which negotiates with relevant departments. Hence Jeju has a right to be consulted on national law that may affect the region.

Executive control

Prior to 2004 there were no routine meetings between central and regional governments to negotiate policy.

In 1991, the national association of local authorities (NALA) was created, but it is a voluntary organization of local assemblies and it has neither regular voice nor veto power over central government policy-making (Lee 1996: 67). The Local Autonomy Act of 1999 grants legal status to four subnational government associations: the governors association of Korea, the

national association of mayors, the association of metropolitan and provincial council chairs, and the national council association of chairmen. The 2004 Special Law on Decentralization Promotion lays down that the national government routinely meets and consults these organizations on national policy (Act 7060, Art. 6). The consultations are non-binding. The governors association has also the authority to propose policy (Bae and Kim 2013: 276). *Do* and *gwangyeoksi* score 1 on executive control from 2004.

The Seoul mayor holds a seat the State Council meetings, which we interpret as a consultative form of bilateral executive control. For instance, various forms of legislation since 1962 have made quite clear that the *teukbyeolsi* government is intended to be the arbiter of wide-ranging policy that distinctly affects the capital metro region. This is especially true with respect to economic development, infrastructural needs, and recent efforts to combat environmental degradation (especially the city's air quality). We score the *teukbyeolsi* 1 on bilateral executive control.

There are no special arrangements for Jeju.

Fiscal control

Since 2004 (Act 7060) the national government is required to consult with the four local government associations (see Executive Control) on subnational finance.

The Seoul mayor's seat on the State Council provides Seoul with consultative authority with respect to tax revenue. The *teukbyeolsi* scores 1 on bilateral fiscal control.

There are no special arrangements for Jeju.

Borrowing control

The national government is not required to consult subnational governments on borrowing rules.

The Seoul mayor's seat on the State Council provides Seoul with consultative authority with respect to borrowing policy. We score the *teukbyeolsi* 1 on bilateral borrowing control.

Constitutional reform

Constitutional amendments require a two thirds majority in the national assembly and approval in a national referendum. Subnational units score zero on constitutional reform.

The special statute for Jeju does not contain provisions on how to amend the Act. It seems likely that the same consultative procedure that gives the provincial government the right to submit proposals to the supporting committee is applicable. Hence we code that the regional government is consulted, but consultation is not binding.^α

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			Institutional depth	Policy scope	Fiscal autonomy	Borrowing autonomy	Representation		Self-rule
							Assembly	Executive	
Do		1952-1959	2	1	0	0	2	0	5
		1960	2	1	0	0	2	2	7
		1961-1990	1	0	0	0	0	0	1
		1991-1994	2	1	1	1	2	0	7
		1995-1998	2	1	1	1	2	2	9
		1999-2002	2	2	1	1	2	2	10
		2003-2018	2	3	1	1	2	2	11
Jikhalsi		1952-1959	2	1	0	0	2	0	5
		1960	2	1	0	0	2	2	7
Gwangyeoksi		1961-1990	1	0	0	0	0	0	1
		1991-1994	2	1	1	1	2	0	7
		1995-1998	2	1	1	1	2	2	9
		1999-2002	2	2	1	1	2	2	10
		2003-2018	2	3	1	1	2	2	11
Teukbyeolsi		1962-1990	1	0	0	0	0	0	1
		1991-1994	2	1	1	1	2	0	7
		1995-1998	2	1	1	1	2	2	9
		1999-2002	2	2	1	1	2	2	10
		2003-2018	2	3	1	1	2	2	11
Jeju		2006-2018	2	3	1	1	2	2	11
Teukbyeol-jachisi		2012-2018	2	3	1	1	2	2	11

Shared rule in South Korea

			Law Making					Executive Control		Fiscal Control		Borrowing Control		Constitutional Reform		Shared Rule	
			L1	L2	L3	L4	L5	L6	M	B	M	B	M	B	M		B
Do	I	1952-2003	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	I	2004-2018	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0
Jikhalsi/Gwangyeoksi	I	1952-2003	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
	I	2004-2018	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0
Teukbyeolsi	I	1962-2003	0	0	0	0	0	0	0	1	0	1	0	1	0	0	0
	I	2004-2018	0	0	0	0	0	0	1	1	1	1	0	1	0	0	0
Jeju	I	2006-2018	0	0	0	0	0.5	0	1	0	1	0	0	0	0	2	4
Teukbyeol-jachisi	I	2012-2018	0	0	0	0	0	0	1	0	1	0	0	0	0	0	2