

# A SOCIO-LEGAL CORPORATE GOVERNANCE MODEL: ANALYZING SOUTH KOREA'S SOCIAL ENTERPRISE PROMOTION ACT USING PUBLIC-PRIVATE PARTNERSHIPS

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## Abstract

Can South Korea reregulate and reconstitute its current conglomerate-based, export-dependent “Korea, Inc.” model towards a more socio-legal corporate governance model more inclusive of socio-economic stakeholder equality concerns? By enacting the Social Enterprise Promotion Act (SEPA), a law expressly aimed at boosting domestic social enterprises through public-private partnerships (PPPs), South Korea became one of the few if only economies in the world to pass a social enterprise law at the national level (rather than at a state or government agency level, as in the US or UK). Historically, South Korea’s greatest economic strength in the post-1945 period was its ability to create a significant manufacturing and export sector dominated by large conglomerates (referred to as “chaebol,” such as Samsung, LG, and Hyundai) that still dominates the economic landscape today—creating “Korea, Inc.” Such corporate governance model allowed South Korea to become an economic success story based on its achievements in the twentieth century, at the risk of being highly export-dependent. However, South Korea has recently put forth regulatory efforts towards creating a new economic path based less on manufacturing and exports by large chaebol (the “Korea, Inc.” model) and greater focus on smaller-size social enterprises that can provide economic growth while also achieving certain socio-economic objectives, including furthering “economic democratization” and socio-economic inclusion by uniquely utilizing PPPs. As such, the nation’s policymakers enacted the Social Enterprise Promotion Act (SEPA). The main objective of SEPA was to provide a regulatory framework for the establishment, funding and regulation of social enterprises. This article provides a regulatory and socio-economic corporate governance perspective regarding SEPA, which includes policy arguments related to the benefits and barriers of the act, in addition to survey results from respondents in South Korea related to social enterprises and similar entities. If successful, SEPA would ideally foster a more sustainable twenty-first century South Korean economic ecosystem, based less on export-dependence, and more on incentive-taking and innovation, while improving the nation’s overall socio-economic conditions by utilizing a unique socio-legal corporate governance model within Asia’s fourth largest economy.

**Keywords:** Social Enterprise Promotion Act, SEPA, Social Enterprises, Korea, Inc., South Korea, Public-Private Partnerships, PPPs, Socio-Legal Corporate Governance, Socio-Economic Inclusion, Basic Law on Cooperatives

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## 1 Introduction

Can South Korea reregulate and reconstitute its current conglomerate-based, export-dependent “Korea, Inc.” model towards a more socio-legal corporate governance model more inclusive of socio-economic stakeholder equality concerns?

By enacting the Social Enterprise Promotion Act (SEPA), a law expressly aimed at boosting domestic social enterprises through public-private partnerships (PPPs), South Korea became one of the few if only economies in the world to pass a social enterprise law at the national level (rather than at a state or government agency level, as in the US or UK).

The issue of how to boost South Korea’s post-2008 subprime crisis economy has been a discussion

ripe for discussion among policymakers today. At the same time, the issue is not entirely new. From a broader perspective, the issue of how to create a more balanced economic ecosystem—less dependent on manufacturing and more focused on creativity and innovation while closing the gap between the haves and have-nots—has received notable attention at the highest level of policymaking, including those of past South Korean presidents past and present, in a tangible effort to restructure one of Asia’s largest global economy that is still highly dependent on exports (Kim, 2013).

Such socio-legal initiatives are enabled through the passage of various regulations and business laws, with this paper incorporating both socio-economic and regulatory perspectives into its analysis. One specific

regulatory output that arose as a result of such policy discussions in South Korea was the passage of the nation's Social Enterprise Promotion Act in 2007 (in the run-up to the 2008 financial crisis) and the Basic Law on Cooperatives in 2012, respectively (collectively, SEPA). SEPA's mandate was to establish, support and regulate social enterprises in South Korea. Of course, enacting a regulation or business law is only the first tangible step, with the subsequent issue being whether the nation's current and future entrepreneurs will actually know of, understand, and utilize SEPA in a way that will provide economic sustenance for the entrepreneur, the entrepreneur's social enterprise, its employees, and the greater South Korean economy.

I argue in this article that although SEPA's mandate to foster social enterprises is needed to reconstitute "Korea, Inc." towards a more socio-legal corporate governance model focused on improving socio-economic inclusion. That is to say, to achieve economic growth while fostering social inclusion across various economic classes vis-à-vis a socio-legal corporate governance model, notably including the promotion of social small and medium-sized enterprises (SMEs).

This article is composed of several parts. First, an overview of SEPA relating to social enterprises will be provided. Second, qualitative (regulatory) and quantitative (statistical survey) analyses will be provided related to SEPA's efforts to further social enterprise growth. Third, a policy analysis will be provided on the merits and demerits of government intervention and financial resources put forth on measures such as SEPA. Fourth and finally, two sets of survey data will be analyzed that addresses the possible challenges to social enterprise formation that may be specific to the post-2008 economic corporate governance environment from the perspective of reconstituting and regulating Korea, Inc. as it relates to start-up entrepreneurs within contemporary South Korea.

## 2 A socio-legal corporate governance model: South Korea's social enterprise promotion act (SEPA)

In the months preceding the 2008 global subprime financial crisis, South Korean policymakers passed the Social Enterprise Promotion Act (SEPA), an act aimed to provide economic and non-economic support to social enterprises, in the spirit of enhancing the needs of stakeholders, rather than just shareholders, including the local community, disadvantaged persons and certain industries.

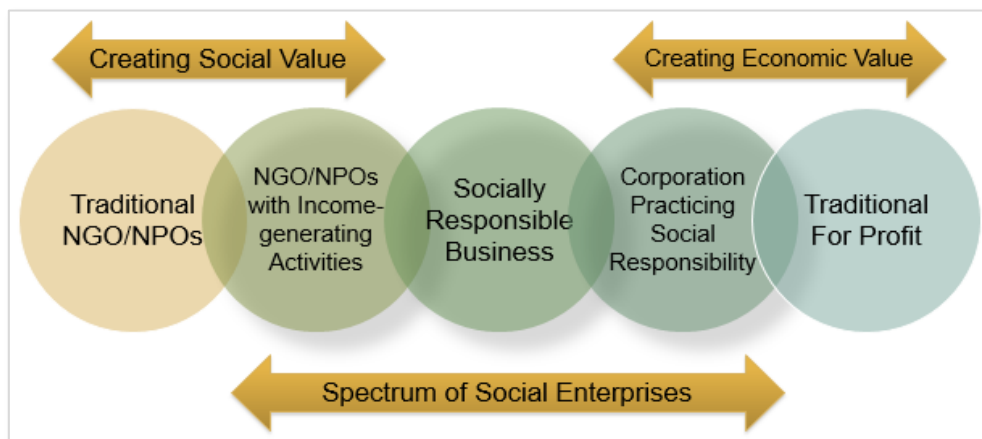
Specifically, a "social enterprise" under SEPA is defined as:

- "a company which does business activities of producing and selling products and services while pursuing such social purposes as providing vulnerable social groups with social services or jobs to improve the quality of life of local residents"; and/or

- "a company which reinvests profits in the business or the local community putting priority on pursuing social purposes rather than on maximizing profits for shareholders or the company's owners." (Social Enterprise Promotion Act, 2007)

Pursuant to SEPA, an applicant entity may qualify as a "preliminary social enterprise" or as a "social enterprise." Related to the "preliminary social enterprise" designation, SEPA states that "if an organization fulfilling the minimum legal conditions necessary to be certified as a social enterprise, including the realization of social purposes and profit creation through business activities does not satisfy some of the stated requirements, such as adequate profit structure; in such case, such entity will be designated as a 'preliminary social enterprise' by the relevant central government or local government authority" (Korean Social Enterprise Promotion Agency, 2012). Social Enterprises can be classified (See Figure 1) in a wide variety of entity types, including traditional NGOs/NPOs to corporations that are acting socially responsible (such as through CSR).

**Figure 1.** The Spectrum of Social Enterprises (Kim, 2013)



In terms of filing requirements, the document-related difference between the two designations is an additional three requirements to qualify as a “social enterprise,” specifically:

Preliminary Social Enterprise requirements:

- (1) Organization Type
- (2) Conduct business activities by hiring paid employees (workers)

(3) Must realize social purposes

(4) Stakeholder decision-making process used

Social Enterprise requirements:

- (1) - (4) above are required, with the additional requirements

(5) Profits through the entity’s business activities should be more than 30% of its total labor costs

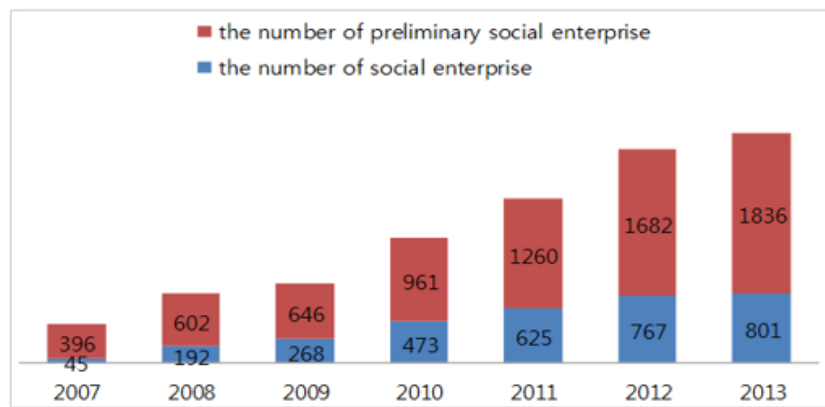
(6) Articles of association needed

(7) Reinvest more than two-thirds of the profits to achieve the stated social purpose

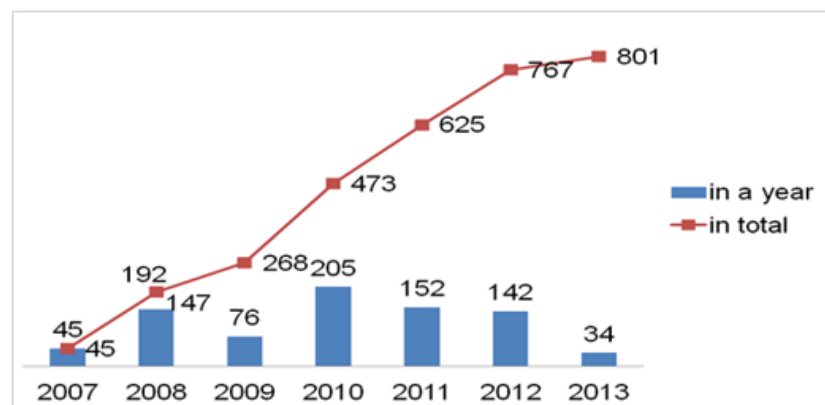
Following SEPA’s entry into force, certain data suggests a clear and steady increase in both the number of Preliminary Social Enterprises as well as

Social Enterprises (See Graph 1). In 2007, the year SEPA was passed into law, a mere 45 Social Enterprises existed, with 396 Preliminary Social Enterprises the same year (See Graph 2). In 2008, the number of Social Enterprises increased over six-fold with 192 total registered (147 of which being registered that year) and 602 Preliminary Social Enterprises. The figures were somewhat similar in 2009, with 268 total registered Social Enterprises (76 of which being registered that year) and 646 Preliminary Social Enterprises. The figures increased noticeably in the following two years with 473 total registered Social Enterprises (205 registered that year) and 961 Preliminary Social Enterprises (205 registered that year) and 625 Social Enterprises (152 registered that year) and 1,260 Preliminary Social Enterprises in 2011. The following year in 2012 saw yet another noticeable increase in both categories with 767 total registered Social Enterprises (142 registered that year) and 1,682 Preliminary Social Enterprises.

**Graph 1.** The Number of Social Enterprises and Preliminary Social Enterprises (Kim, 2013)

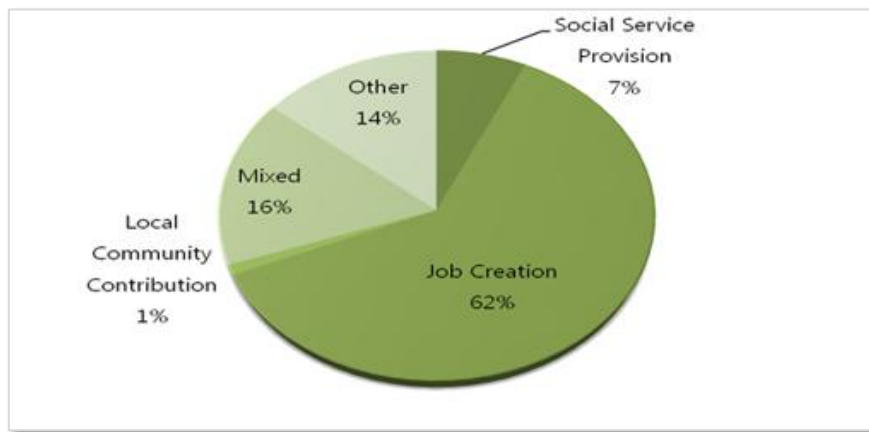


**Graph 2.** The Number of Social Enterprises (Kim, 2013)



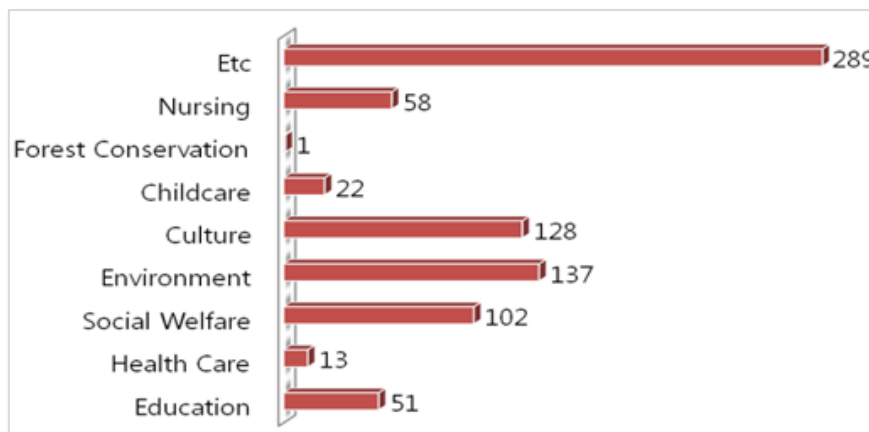
Among those established, the vast majority of social enterprises created in South Korea were dedicated towards job creation (62%) (See Figure 2). Multiple social purposes constituted the second

highest social purpose (16%), with “other” (14%), social services (7%), and contribution to the local community (1%) constituting the remaining portions.

**Figure 2.** The Number of Social Enterprise by the Social Purpose (Kim, 2013)

In terms of figures related to the industry categorization of Social Enterprises, environmental, culture-related, and social welfare were some of the most popular, with figures at 137, 128, and 102, respectively (See Graph 3). These were followed by nursing, education, childcare, and healthcare, with figures at 58, 51, 22, and 13, respectively. The least

popular categorization was in the forest conservation industry with only 1 registered Social Enterprise. Interestingly, the most highly selected category was “other,” perhaps due to its inherent flexibility to incorporate various industries or to allow for possible adjustments to categories in the future.

**Graph 3.** The Number of Social Enterprise by the Industrial Classification (Kim, 2013)

So how does South Korea’s social enterprise start-up numbers compare to other leading global economies? In terms of the number of social enterprises, the U.S. has the highest figure with 195,000, followed by Canada with 170,000, and the UK with 62,000 (See Table 1). In terms of the percentage employed by social enterprises, Canada has the highest figure at 17.9% followed by the UK at 12.5% and the U.S. at 9.9%. In comparison, in South Korea, a mere 0.06% of its national employment rate is by Social Enterprises. (Kim, Yoon and Kim, 2014).

One objective of SEPA is to assist “vulnerable persons.” Has SEPA met its stated socio-economic and legal objective? In 2007, 1,403 of 2,539 employees (55.3%) were classified as “vulnerable persons.” In 2008, the related figures were 4,832 of

8,329 (58.0%); 6,467 of 11,150 (58.0%) in 2009; 8,227 of 13,443 (61.1%) in 2010; 10,018 of 16,319 (61.4%) in 2011; and 11,443 of 18,689 (85.1%) in 2012 (Ministry of Employment and Labor, 2013). Based on such data, SEPA is having at least some measurable impact in terms of both the number of Social Enterprises formed as well as the employment of vulnerable groups by such Social Enterprises.

The next section delves further into not just the opportunities, but also the related challenges facing South Korea in reconstituting its approach to a more socio-legal corporate governance model as it relates to SEPA.

**Table 1.** The comparison of social enterprise across countries (Kim, Yoon and Kim, 2014)

	The U.S.	Canada	The UK	Korea
The number of social enterprises	195,000	170,000	62,000	801
The number of social enterprise employees	14million	3million	3million	18 thousand
Employment rate by social enterprises	9.9%	17.9%	12.5%	0.06%

The different meanings of social enterprise occasion significant differences in the number of it and beneficiaries of its employment and social services cross countries.

- The narrow definition of social enterprise in Korea results in the smallest numbers of not only social enterprises, but also employees of them, as well as the rate of employment.

### 3 Policy analysis: benefits vs. costs

While SEPA's socio-economic and legal objectives have provided some benefits, as the data in the previous section has suggested, what potential policy risks and considerations could exist that may offset SEPA's benefits, given that many members of society would likely support the notion of increased participation of social start-ups involving traditional and under-represented groups?

One related risk of enacting SEPA is that Social Enterprises could transform into quasi- or de facto (but not necessarily de jure) public agencies (Kuan and Wang, 2009). The other risk is that Social Enterprises in South Korea are, in effect, a type of vulnerable business entity aimed at employing vulnerable persons (See Graph 4) in that Social Enterprises in the country tend to be SMEs (small and medium-sized enterprises) notably dependent on the public sector for various financial and non-financial assistance (as discussed in the next section).

**Graph 4.** The number of certified social enterprise workers (Kim, 2013)

OECD statistics (2007) reflect that South Korea ranked at the very bottom in terms of social expenditures relative to GDP at a ratio of 7.6%, with only Mexico having a lower ratio at 0.4%. Moreover, South Korea is the only state that spent less than 30% of its budget on social welfare expenditures with a ratio of 26.4% (Kim, 2013).

While the previous paragraphs outlined the socio-economic and legal objectives and benefits of SEPA supplemented with statistical evidence, the remaining part of this section provides a policy perspective related to the various associated risks of SEPA from a socio-legal and regulatory policy

perspective to weigh against the potential benefits of the act.

#### 3.1 Disparate regulatory jurisdiction for social enterprises and similar social entity types

For a regulatory law related to start-ups and social enterprises to be successful, from the purview of many practicing business law professionals, the regulatory effort must be narrowly tailored, clear, and have a specific objective, among other things. However, SEPA is one of several similar but distinguishable



social business entity regulatory efforts put forth by the South Korean government in recent years, which the table below clearly illustrates.

To begin, while social enterprise start-ups are under the general purview of the Ministry of

Employment and Labor pursuant to SEPA, other similar social entity types simultaneously exist, with each similar but distinguishable social entity type each being governed under different and separate government ministries (See Table 2).

**Table 2.** Regulatory jurisdiction of social entity start-ups (Kim, 2013)

	Social Enterprise	Village Enterprise	Agriculture & Fishery Community Company	Self-sufficiency/ support Program	Senior Employment Program	Cooperatives
The ministry concerned	Ministry of Employment and Labor	Ministry of Security and Public Administration	Ministry of Agriculture, Food and Rural Affairs	Ministry of Health and Welfare	Ministry of Health and Welfare	Ministry of Strategy and Finance
Definition	A company which does business activities of producing and selling products/ services while pursuing social purposes such as providing vulnerable social groups with social services or jobs	A company producing sustainable income and jobs through locally led business and various specialized resources of community		A company hiring beneficiaries of national basic living security program more than 1/3 of workers	A company providing opportunities for seniors of creating income and making social participation	A business organization that intends to enhance its partners' rights and interests and so contribute to local communities (social cooperatives; a cooperative that carries out business activities related to the enhancement of rights, interests, and welfare of local residents or provides social services or jobs to disadvantaged people)
Year started	2007	2010	2011	2003	2004	2012

**Table 3.** State of social economy in Korea

	Social Enterprise	Village Enterprise	Agriculture & Fishery Community Company	Self-sufficiency/ support Program	Senior Employment Program	Cooperatives
Related law	Social Enterprise Promotion Act	Guideline from Ministry of Security and Public Administration	Special Act on improvement of quality of farmers and fishermen's life	National Basic Living Security Act	Welfare of the Aged Act, Framework Act on Low Birth Rate in an Aging Society	Framework Act on Cooperatives
Financial aid	Labor cost, social insurance, consulting, half off of corporate/ income tax	KRW 80,000,000 per a company including occupancy expenses and consulting	KRW 50,000,000 per a company including product development expenses and consulting	Labor cost, business loan in the early stage	Labor cost, incidental expenses, (operating expense for an market entry type)	n/a
Number	856	781	720	1,342	220,000	221(common) & 4(social)
Budget (KRW)	192.5 billion	20.5 billion	1.5 billion	473.2 billion	221.2 billion	2.2 billion
Middle manager	KoSEA, support organization in each region	support organization in each region	Korea Rural Community Corporation	Self-sufficiency/ support center in each region	Korea Labor Force Development Institute for the Aged	KoSEA

One such example are so-called village enterprises, which is defined as a company producing sustainable income and jobs through locally-led business and various specialized resources within the local community (Kim, 2013). Village enterprises, which were recognized from 2010, are regulated not by the Ministry of Labor and Employment (as in the case for social enterprises), but under the Ministry of Security and Public Administration. Approximately 781 village enterprises have been formed, with each entity capable of receiving up to KRW 80 million per company (Ministry of Security and Public Administration, 2012). A year later in 2011,

entrepreneurs could also choose to create an Agriculture and Fishery Community Company. Such entity type has a substantially similar description as for village enterprises in terms of producing a sustainable income through local means, except of course, that the entity's business model should be narrowly tailored to the agricultural and/or fisheries industry(ies).

However, such entities are governed under the Ministry of Agriculture, Food, and Rural Affairs. Approximately 720 such entities exist with each entity capable of receiving up to KRW 50 million. Yet another similar but presumably distinguishable entity

type is for the cooperative entity type. For an entity to be a cooperative, the business model must be a business organization that intends to enhance its partners' rights and interests, and in so doing, contribute to the local community and needs (as of this writing, 221 cooperative have been formed). To no surprise, cooperatives are regulated by yet another separate government ministry than any others previously mentioned, specifically, the Ministry of Strategy and Finance.

While the objective of creating a "shared economy" and/or socio-legal corporate governance model whereby entities work in conjunction with, rather than separately from, the local community is noteworthy and worth lauding, what is lacking is a coherent process to get to such objective. Rather than a series of similar and potentially confusing array of social entity types, each governed by separate government ministries, one single ministry should have jurisdiction over one broad and comprehensive social enterprise law. Such broad law could be inclusive of all the aforementioned entity types, including (but not limited to) social enterprises, village enterprises, agricultural and fishing community companies as well as cooperatives. As one benchmark, South Korea passed the Capital Markets Consolidation Act in 2009 as part of its financial sector "big bang" reconstitution efforts, which incorporated various related financial regulations under one greater regulatory umbrella (PricewaterhouseCoopers, 2008). Currently, the regulatory structure is needlessly confusing for actual and potential social business entrepreneurs, which may be stifling the creation of future entrepreneurial efforts.

### **3.2 Dependency theory on regulatory assistance**

The vast sums afforded to social enterprises from the government is in the spirit of furthering shared economics that should in particular help those who do not already have the requisite capital. However, given the relatively high failure rate of start-ups in Korea of up to 80% (Kim, 2013), the failure and bankruptcies of such aspiring start-ups, arguably by individuals who are relatively less economically positioned to be able to absorb such financial loss, could ironically worsen, rather than boost, the socio-legal corporate governance ecosystem.

The provision of large capital for social enterprises under SEPA related to the support of machinery and labor wages to a population that may not be highly financially literate or experienced in start-ups may not be an ideal use of such allocated budget funding (amounting to approximately 192.5 billion won). Further, such dependency may encourage non-rational risk-taking that the market would normally not find value-added. With such public sector intervention, some worry that social enterprises could turn into de facto public agencies, in

which the social enterprise ends up trying to fulfill a particular agency's service or task. As Kuan and Wang states, "There are always risks for social enterprises to be slowly transformed social into some kinds of subsidiaries of public agencies." (Kuan and Wang, 2009) As a counterargument, the Ministry of Employment and Labor that regulates social enterprises under SEPA provides "consulting" as well as capital injection as part of its support package. However, it is not clear how effective such consulting efforts could be given the varying business areas covered by social enterprises. More likely, it is the author's view that such "consulting" would in notable part mean networking to relevant parties in the potential social enterprise business model.

Rather than a mere document review followed by capital injection by the government of future social enterprises, the MOEL should ensure and perhaps even provide a workshop or tutorial on financial literacy and business management. As part of such process, the entrepreneurs could be vetted in terms of financial and business acumen generally as well as with respect to the entrepreneur's specific social business model.

Moreover, as SEPA is currently written, financial funding is provided for a fixed term only, after which such funding is either renewed again or cut-off entirely. Instead, SEPA funding should be gradually increased and/or decreased depending on performance. That is, SEPA funding should be performance-based (contingent) funding, which will provide a tangible incentive to create profit and thus be a sustainable business.

As a general matter, other aspects of the social business ecosystem in contemporary South Korea could but does not yet exist. This includes a change of the government's budgetary allocation "mindset" from "subsidies" to "investment." As Marguerite Mendell, director of Karl Polanyi Institute of Political Economy argues, such difference in mindset will lead to a difference in methodological approach in terms of assessing which business start-ups would be sustainable (Mendell and Nogales, 2012). Such alternatives in thought are, crowdfunding proposed by related regulatory acts where small businesses can be chosen to receive funds based on popularity of their idea online, while another idea revolves around using retirement funds, 401K, to invest in start-ups. Both new in conception show possibilities of great incentives by such investments, though like any startup, cannot avoid risks and skepticisms raised, as Davidoff points out (Davidoff, 2012).

Nevertheless opportunities should be encouraged and alternative sources of funding should also be available to social enterprises in addition to existing public funding and subsidies. Such alternatives include the creation of a social stock exchange, furthering of social investment funds, greater support for social banks and related financial institutions (Sorkin, 2013).

### 3.3 Signal of government market intervention leading to moral hazard

SEPA and its allocated funding for social enterprises could potentially create “moral hazard,” which effectively creates an incentive for individuals to spend recklessly again in the future with little or no fear of the consequences related to business start-up failures, and with little repercussion at the taxpayers’ expense<sup>7</sup> in the future. An argument could also be made that SEPA represents an inefficient use of taxpayers’ money. The rationale is that taxpayer revenues should be used for such things as pension funds, healthcare, and crime prevention, rather than subsidizing social enterprises, many of which, may not have received funding from private sector sources.

SEPA could also send a worrisome signal, actual or perceived, to the domestic and international financial markets that the Korean government, again, may be in the business of acting as constant market surveyor ready to strike at any given moment when it perceives that designated debt levels have somehow crossed the fine line from not enough consumer debt spending to too much consumer debt spending, hence warranting government intervention into the loan and debt markets<sup>8</sup>. Investors enter into every transaction on the basis of *caveat emptor*. But if the government sends out signals that it is in the business of acting as market commentator—holding up red, yellow, and green lights as signals as to if, when, and how its populace should spend or use lines of credit to spend—then the country’s public policy is to create a nation dependent on the government, rather than the relevant individuals themselves on an independent basis. Related risks exist as well, which include inaccuracies of information, lags in receiving information, and lack of needed information. In short, the practical effect would be that SEPA would signal to individual investors that they need not evaluate relevant spending risks because the government will bail them out if such spending is viewed as severe enough to warrant such intervention. In other words, the more reckless the spending behavior, the higher the likelihood of being bailed out. Such behavior strikes at the core of how SEPA could promote moral hazard to the detriment of both the South Korean and even possibly the international financial markets.<sup>9</sup>

<sup>7</sup> As a matter of practice, separate from theory, government action to relieve the debts of individuals made the credit delinquents to make less effort to pay what they owe. After the government announced on January 7, 2005 that the Ministry of Finance and Economy would look into exempting the principal debts, debts adjustment consulting requests to the Credit Recovery Committee fell from average 4,000 a day in November 2004 to 476 on January 8, 2005 (Wohn, 2005).

<sup>8</sup> The main problem in this scenario is that such instant price deflation towards a certain designated level would be chosen not by the markets, as in most developed nations, but by government officials.

<sup>9</sup> Similarly, government-led Korean economic development during 1970s caused moral hazard problems too. By the early 1970s, government supported industrial groups (a few conglomerates) were highly leveraged with loan guarantees

This begs the question of exactly what test should the government apply to intervene in the markets? Ideally such a test should be uniform, clear, and transparent to instill investor confidence. But as it stands now, no statement has been given to the general public regarding the exact methodology as to when, how, and to what extent the government will apply any further related legislation.<sup>10</sup> Such inaction does not reflect uniformity, clarity, or transparency, which will thus signal to the markets that the socio-political, economic, and legal landscape in South Korea has indeed changed drastically from a relatively transparent investment environment based on open and free market principles back towards a pre-1997-98 type crony capitalistic days of old where government and state were indistinguishable, where the government had a more direct influence on macroeconomic growth, and where the government not the markets dictated investment behavior.<sup>11</sup>

### 4 Survey data: a socio-legal perspective

While the previous section provided a broad socio-economic and regulatory policy perspective related to s, generally, and SEPA, specifically, the next question becomes how regular South Koreans feel about start-ups, including social enterprises. In an economy in which many of the top students aspire to work for “stable” career options, such as working for government or large conglomerates, staking the notion of beginning a start-up, especially prior to retirement (which can be from age 55), can be seen through a different prism than in other nations. As such, the next section provides data at two levels to provide some perspective. The first survey is one conducted and released by the JoongAng Ilbo with 1,000 survey respondents.

The second survey provided is one conducted by the author involving a select group of graduate students at a major university in Seoul (Kim, 2013). The two surveys are purposely used since they contrast each other, rather than mirror each other.

The two surveys are purposely provided due to their complementary traits. The JoongAng Ilbo survey provides data for students and non-students in and

through the banks owned by the government. As the government become a partner responsible for their failure as well as success, this bailout induced excessive risk taking (Park, 1990).

<sup>10</sup> For specific example, the new bill on debt reorganization and bankruptcy, which would combine the mishmash of existing bankruptcy laws, is held up in the National Assembly, without any guarantee to be passed (Kim and Moon, 2015).

<sup>11</sup> For a broad overview on the influential role of the state within the South Korean economy, see generally, Tony F. Yu, *Entrepreneurial State: The Role of Government in the Economic Development of the Asian Newly Industrialized Economies*. Development Policy Review, Vol. 15, Issue 1, at 47 (March 1997). On the contrary, for an academic survey that discusses the limitation of the state’s role within the South Korean economy, see generally, J C Rhee, *The State and Industry in South Korea; The Limits of the Authoritarian State* (Routledge Press, London, 1994).



outside Seoul, which can be seen as a type of national survey involving a near representative sample (or a good faith attempt towards it) of the South Korean population at large. On the other hand, the graduate student survey involved 62 graduate students, with the objective of focusing specifically on “the next generation” of South Korean entrepreneurs with respect to their unique perspective on the benefits and barriers to start-ups, social enterprises, and to a lesser extent, risk-taking.

#### 4.1 JoongAng Ilbo survey: nation-wide responses

The JoongAng Ilbo survey is a large nation-wide survey involving 1,000 respondents. The sheet depth and breadth of this survey is meant to provide insight into the “average” or “typical” South Korean, here in this case, related to start-ups, social enterprises, and to a lesser extent, risk-taking.

One key question in the survey is ‘why take the risk of a start-up?’ According to the survey, the dominant driving factor behind creating a new venture was the “wish to have their own businesses” (42.3%) (perhaps in part due to the relatively strict corporate and even public sector working culture of South Korea), a desire to secure “better income” (38%), (despite data related to the relatively low success rate of new ventures, including social enterprises), and dissatisfaction with the individual’s current work environment (9.8%). Interestingly, according to the survey, the desire to start a new venture based on having a “creative business” ranked second to last, with 7.9%, followed by “other” with 2% in survey. The type of new enterprises actually opened were primarily in the food and restaurant sector (26.9%), followed by retail (17.7%), sales and services (17.5%), clothing (14.4%), and mechanical facilities (8.2%). Interestingly, IT services, which many envision when the term “start-up” or new business venture often conjures, was one of the last categories chosen (7.5%).

In terms of barriers to entry, respondents’ current satisfaction with their current position was the main factor (30.7%), followed by high risk (24.3%), lack of sufficient capital (17.5%), lack of capacity (14.4%),

and an overly difficult process to begin a start-up in the country (9%). “Other” reasons accounted for the remaining 4.2% of responses. In terms of perceived start-up resource requirements needed, related items was the predominant response (33%), followed by capital (30%), information (14.2%), technology (11.8%), a “challenging spirit” (7.6%), government support (3.2%), and “other” (0.3%).

When compared to other benchmark countries, specifically Japan, the U.S., and Germany, South Korea generally lagged in terms of the necessary elements commonly associated with creating a new venture. Regarding ease and access of opening a new venture, South Korea placed nearly last among 52 countries (48<sup>th</sup>). The U.S. ranked 19<sup>th</sup>, Germany, 30<sup>th</sup>, and Japan, 34<sup>th</sup> place in this same category (International Institute for Management Development, 2012; Hyundai Research Institute, 2013; World Bank, 2013). In terms of ease of technology transfer, South Korea fared slightly better, ranked in 25<sup>th</sup> place, compared to Japan (27<sup>th</sup>), Germany (5<sup>th</sup>), and the U.S. (3<sup>rd</sup>). Regarding effective use of technology funds, South Korea placed near the lower end at 33<sup>rd</sup> place, compared to Japan (21<sup>st</sup>), Germany (12<sup>th</sup>), and U.S. (3<sup>rd</sup>). Another critical barrier entry is the ratio of start-up costs relative to gross national income (GNI). Although the lower the ratio the better, South Korea’s ratio (14.6%) were the highest among the same four benchmark economies, which was significantly higher than the U.S. (1.4%), Germany (4.9%), and Japan (7.5%) (Legatum, 2013).

#### 4.2 Graduate student survey responses in South Korea

In contrast to the massive scale and scope of the JoongAng Ilbo survey, the author conducted a similar survey based on a select group of 62 participants who were graduate students at a major university based in Seoul, South Korea. The objective of the relatively smaller number of respondents was to specifically focus on the mindset of South Korea’s future potential young entrepreneurs. This section provides the survey questions followed by the respondent survey results, both quantitatively as well as qualitatively.

**Table 4.** Q1 Are you considering establishing a social enterprise/business?

Response	Now	Within the next year	Within 1-3 years	After 3 years	I have already operated a social enterprise business	I am not considering ever, now or later, establishing a social enterprise/business
<b>Total</b>	1	2	9	21	0	29
<b>Percentage</b>	2%	3%	15%	34%	0%	47%

As seen in question 1, “Are you considering establishing a social enterprise /business?” (See Survey Table 1), a large portion, 47% which makes

nearly half of the respondents, were not considering establishing a social enterprise by any means. However, 53% considered or have already established

a social enterprise or business. 34% of the respondents found interest in establishing an enterprise only after 3 years while 15% considered starting one in the near future of 1-3 years. 3% felt ready to start one within the following year and only 2% have already established or begun one.

The survey results reflect a sharp divide between those who want to establish a social enterprise, and those who do not want to establish a social enterprise. Moreover, the responses reflect the fact that the desire to establish a social enterprise diminishes over time among the graduate student sample who indicated they have considered establishing a social enterprise.

**Table 5.** Q2 If you answered “F” above, what is your main rationale for not considering establishing a social enterprise/business?

Response	Satisfied with current work environment	Too risky	Insufficient capital	Insufficient capacity (to run such social entity)	Not interested	Other	Unanswered
<b>Total</b>	5	4	1	6	10	5	31
<b>Percentage</b>	8%	6%	2%	10%	16%	8%	50%

In the follow up question for the respondents who did not wish to establish a social enterprise or business, “If you answered “F” above, what is your main rationale for not considering establishing a social enterprise/business?” (See Survey Table 2), the reasons provided for were interestingly not due to concerns of capital. Rather, 16% were simply not interested in such endeavors. 10% answered it was due to insufficient capacity, 8% were satisfied with their current work while 6% thought such efforts were “too

risky” and only 2% reasoned it with “insufficient capital.” The responses, thus, reflect an interesting observation that, at least among this relatively small sample, funding and capital is not a primary barrier to establishing a social enterprise, which runs counter to one of SEPA’s main pillar that funding is key to establishing South Korea as a social enterprise start-up nation utilizing a socio-legal corporate governance model.

**Table 6.** Q3 For all replies to Q1 above, if your social enterprise/business idea received funding for your worker’s wage only, would this be sufficient incentive for you to begin (or continue) a social enterprise business?

Response	Very likely	Somewhat likely	No effect	Somewhat unlikely	Very unlikely	Unanswered
<b>Total</b>	8	28	9	12	4	1
<b>Percentage</b>	13%	45%	15%	19%	6%	2%

To determine incentives for beginning or continuing a social enterprise or business, Question 3 hypothetically asked if a funded workers wage would draw motivation. “For all replies to Q1 above, if your social enterprise/business idea received funding for your worker’s wage only, would this be sufficient incentive for you to begin (or continue) a social enterprise/business?” (See Survey Table 3). The results showed that there would be somewhat of an

interest with 45% of the respondents saying that it would be “somewhat likely.” 40% had collectively answered from a range of no effect to very unlikely, while 36% showed interest but only 8% considered it to be a very likely incentive. This may suggest that SEPA’s provision for such labor wage funding was correct, and thus, the subsidization of workers’ wages served as a necessary incentive to establish a social enterprise.

**Table 7.** Q4 For all replies to Q1 above, if your social enterprise/business idea received funding for your operating equipment only, would this be sufficient incentive for you to begin (or continue) a social enterprise business?

Response	Very likely	Somewhat likely	No effect	Somewhat unlikely	Very unlikely	Unanswered
<b>Total</b>	5	28	8	10	10	1
<b>Percentage</b>	8%	45%	13%	16%	16%	2%

In continuation, question 4 asked, “For all replies to Q1 above, if your social enterprise/business idea received funding for your operating equipment

only, would this be sufficient incentive for you to begin (or continue) a social enterprise/business?” (See Survey Table 4), A similar result was found with the

previous question on funds for workers wage. 53% would have some form of interest with only 8% “very likely,” followed by (45%) “somewhat likely” to pursue a start-up. 45% answered it would have no effect nor be a likely scenario to give them enough incentive to pursue a start-up with “somewhat

unlikely” to “very unlikely” divided equally, 16% each. The evidence in this survey question mirrors the same analysis as the previous survey question, that is, that the subsidization of certain operating expenses served as a necessary incentive for considering the establishment of social enterprises.

**Table 8.** Q5 For all replies to Q1 above, if your social enterprise/business idea received consulting and connections (only) to others in your social enterprise/business sector, would this be a sufficient incentive for you to begin (or continue) a social enterprise business?

Response	Very likely	Somewhat likely	No effect	Somewhat unlikely	Very unlikely	Unanswered
<b>Total</b>	8	21	13	14	4	2
<b>Percentage</b>	13%	34%	21%	23%	6%	3%

When taking a look at question 5, “*For all replies to Q1 above, if your social enterprise/business idea received consulting and connections (only) to others in your social enterprise/business sector, would this be a sufficient incentive for you to begin (or continue) a social enterprise/business?*” (See Survey Table 5), the result show a slight trend towards the unlikely side. A slight decrease in percentage from both Q3 and Q4 was found with 47% having some

degree of likelihood, 13% Very likely, 34% Somewhat likely, while half of the respondents would find no effect or consider it not enough of an incentive as they answered 21% “no effect, 23% “somewhat likely” and 6% “not likely.” The respondent results suggest that while consulting services are viewed as important, it may not be viewed as critically important as, for instance, expense subsidization provisions, as also provided for pursuant to SEPA.

**Table 9.** Q6 For all replies to Q1 above, if your social enterprise/business idea received a lump-sum funding amount for 3 years for half (50%) of your total operating expenses, would this be a sufficient incentive for you to begin (or continue) a social enterprise business?

Response	Very likely	Somewhat likely	No effect	Somewhat unlikely	Very unlikely	Unanswered
<b>Total</b>	21	26	4	6	3	2
<b>Percentage</b>	34%	42%	6%	10%	5%	3%

Question 6 asked, “*For all replies to Q1 above, if your social enterprise/business idea received a lump-sum funding amount for 3 years for a half (50%) of your total operating expenses, would this be a sufficient incentive for you to begin (or continue) a social enterprise/business?*” (See Survey Table 6), Here, a noticeable change in participants’ perspective was observed with a majority of 76% who found some

degree of likelihood. 42% responded “somewhat likely” and 34% “very likely.” 21% found it “having no effect” to being “very unlikely.” The results to this question could perhaps imply that overall funding for the various necessities in a social enterprise/business is valued as one of the determining (but not necessarily dispositive) factors that could launch a potential start-up on its way.

**Table 10.** Q7 Which country would you want to establish a social enterprise/business?

Response	South Korea	North America	Asia (outside of South Korea)	Africa	Other	Unanswered
<b>Total</b>	9	4	18	10	20	1
<b>Percentage</b>	15%	6%	29%	16%	32%	2%

To the next question, “*Which country would you want to establish a social enterprise/business?*” (See Survey Table 7), 32% of graduate student respondents found interest in establishing a social enterprise/business outside of the given answer choices as possibilities for “other” which would include Russia, Australia, countries in Europe and the Middle East. 29% considered an Asian country outside of South Korea, and only a few, 15% found South Korea to be their ideal place, trailed by 6% in

North America. Though the survey did not ask respondents for the rationale underlying their location of choice, motives for a certain form of social impact could potentially be the driving force for the choice of the country. Another factor could be the actual and/or perceived administrative, financial and social barriers of establishing a social enterprise, rather than pursuing a traditional South Korean career path, such as working in the public sector or for a large corporate conglomerate.

**Table 11.** Q8 Which business sector comes to mind when thinking about social enterprise businesses?

Response	Food and Beverage	Information Technology (IT)	Retail	Clothing and Apparel	Other	Unanswered
<b>Total</b>	11	11	8	13	19	1
<b>Percentage</b>	18%	18%	13%	21%	31%	2%

To find perception of social enterprise/business to the average population, when asked, “Which business sector comes to mind when thinking about social enterprises/business?” (See Survey Table 8), 31% chose “other” rather than the sectors provided. 21% thought of connections to clothing and apparel followed by a tie of 18% in Food and Beverages and Information technology (IT). The least number was

found in retail with 13%. The survey results suggest that social enterprises and start-ups are not necessarily are not interchangeable with IT (albeit information technology, or as the current administration has stated, innovation technology), but is much broader, to include the food and beverage as well as clothing/retail industries, among others.

**Table 12.** Q9 Why would you consider establishing a social enterprise/business?

Response	Desire to own my own social enterprise/business	Dissatisfaction with current work environment	Opportunity to contribute to society in a creative entrepreneurial way	Other	Unanswered
<b>Total</b>	12	3	46	3	1
<b>Percentage</b>	19%	5%	74%	5%	2%

When the graduate student respondents were asked, “Why would you consider establishing a social enterprise/business?” (See Survey Table 9), 74% responded with having the opportunity to contribute to society in a creative entrepreneurial way. 19% followed with the desire to own their own social enterprise/business. Dissatisfaction with one’s current work environment and “other” reasons were held at

5% each. The majority having responded for societal contribution exemplifies that intent has much to do with the social purpose and envisioning of such enterprises and start-up enterprises. Such survey data suggests that SEPA’s mandate towards establishing, funding, and regulating social enterprises may be on point with the sentiment of at least some of the student population in modern day South Korea.

**Table 13.** Q10 How much do you know about social enterprises at this point?

Response	None	Some knowledge	Significant knowledge	Expert knowledge	Unanswered
<b>Total</b>	4	41	15	0	2
<b>Percentage</b>	6%	66%	24%	0%	3%

From the question, “How much do you know about social enterprises at this point?” (See Survey Table 10), the majority of the graduate student participants of this survey have had at least some knowledge of social enterprise collectively (90%), as 66% had some knowledge, 24% significant knowledge and 0% with expert knowledge. The survey data suggests that SEPA could provide funding for greater

educational and perhaps societal awareness related to social enterprises, and thus could provide further opportunities for students and the public to learn and become aware of such kinds of social enterprises and businesses.

The remaining graduate student survey questions and results were as follows:

**Table 14.** Q11 What is your age?

Response	18-24	25-30	31-35	36-40	Over 40
<b>Total</b>	23	30	4	1	4
<b>Percentage</b>	37%	48%	6%	2%	6%

As question 11 posed the question, *What is your age?* (See Survey Table 11), the majority in the age demographic for this survey’s participants was found between undergraduate university years to young professional years (48%) from the range of 25 to 30

years old and 37% from 18 years old to 24. The thought process of future and future endeavors are its prime in these two age brackets, which brings to light an interesting perspective to the idea of social enterprise and to its succeeding generations to come.

**Table 15.** Q12 What is your marital status?

Response	Single	Married
<b>Total</b>	52	10
<b>Percentage</b>	84%	16%

To further analyze the background of the participants through the question, *What is your marital status?* (See Survey Table 12), the majority of the

participants were in their singlehood with a lead of 84% while 16% were married.

**Table 16.** Q13 Regardless of marital status, how many children do you have?

Response	None	1	2	More than 2	Unanswered
<b>Total</b>	49	3	3	1	6
<b>Percentage</b>	79%	5%	5%	2%	10%

A survey question also asked: *Regardless of marital status, how many children do you have?* (See Survey Table 13), in terms of children, the majority were not in the stage of having a family. 79% were without children. 5% had 1, 5% had 2 and 2% had more than 2 children. It seems that the lack of interest

in social enterprise or business would not be just from a status of being married or having a family. Rather, it is largely found among the demographic of the younger generation who have yet to have established a career (as will be seen with question 15 and 16) and a family.

**Table 17.** Q14 Which country are you from?

Response	South Korea	North America	Asia (Outside of South Korea)	Africa
<b>Total</b>	16	2	9	6
<b>Percentage</b>	26%	3%	15%	10%

A diverse pool in ethnicity was found with the participants when asked, *Which country are you from?* (See survey table 14). 47% are participants who are from countries that are possibly found in Russia,

Europe, Middle East and Australia. 26% are found native to the country in which this survey was taken, South Korea, followed by 15% in other Asian countries and 3% from North America.

**Table 18.** Q15 What is your highest educational degree attained?

Response	Graduate degree (Master's, doctorate, etc.)	Undergraduate degree (bachelor degree or its equivalent)	High School degree	No formal degree
<b>Total</b>	30	29	3	0
<b>Percentage</b>	48%	47%	5%	0%

The next graduate student survey asked, *What is your highest educational degree attained?* (See Survey Table 15), 48% of the participants already received a graduate degree while 47% had at least

attained an undergraduate degree showing that 95%, nearly all of the survey participants have had some form of higher education.

**Table 19.** Q16 Do you have full-time work experience, if so, how many years?

Response	None	Less than 1 year	1-3 years	Over 3 years	Internship and/or part-time work experience only (but not full-time work experience)	Unanswered
<b>Total</b>	7	10	13	15	17	1
<b>Percentage</b>	11%	16%	21%	24%	27%	2%

As seen in the previous question, *Do you have a full-time work experience, if so, how many years?* (See Survey Table 16), a little more than half of the participants were in the early stages of their career whether still in school or the beginning stages of a job. 27% of the respondents only had the experience of an internship or other part-time work experiences, only 24% have had full-time work experience over 3 years

and 48% had 0 to 3 years of full-time work experience.

## 5 Conclusion

Can South Korea improve its corporate governance approach at the national level by reregulating and reconstituting its traditional “Korea, Inc.” paradigm



towards a socio-legal corporate governance model? By enacting the Social Enterprise Promotion Act (SEPA), a law expressly aimed at boosting domestic social enterprise start-ups through public-private partnerships (PPPs), South Korea became one of the few if only economies in the world to pass a social enterprise law at the national level (rather than at a state or government agency level, as in the US or UK).

The main objective of SEPA was to provide a regulatory framework for the establishment, funding and regulation of social enterprises. This article provides a regulatory and socio-legal corporate governance perspective regarding SEPA, which includes policy arguments related to the benefits and barriers of the act, in addition to survey results from respondents in South Korea related to social enterprises and similar entities. If successful, SEPA would ideally foster a more sustainable twenty-first century South Korean socio-economic ecosystem, based less on export-dependence, and more on incentive-taking and innovation, while improving the nation's overall socio-economic conditions by utilizing a unique socio-legal corporate governance model within Asia's fourth largest economy.

## References

- Davidoff, S. (2012). The risks of Tapping Your Retirement Fund for an Alternative Use. *The New York Times*. [online] Available at: [http://dealbook.nytimes.com/2012/10/30/the-risks-of-tapping-a-retirement-fund-for-an-alternative-use/?\\_php=true&\\_type=blogs&\\_r=0](http://dealbook.nytimes.com/2012/10/30/the-risks-of-tapping-a-retirement-fund-for-an-alternative-use/?_php=true&_type=blogs&_r=0) [Accessed 27 Mar. 2014].
- Hyundai Research Institute, (2013). *Weekly Economic Review*. [online] Available at: [http://www.cy-learn.co.kr/2010/pds/pds\\_hri\\_weekly.asp?s=v&i=19070&p=1](http://www.cy-learn.co.kr/2010/pds/pds_hri_weekly.asp?s=v&i=19070&p=1) [Accessed 25 Mar. 2014].
- International Institute for Management Development, (2012). *World Competitiveness 2012*. [online] Available at: <http://www.imd.org/wcc/news-wcy-ranking/> [Accessed 25 Mar. 2014].
- JoongAng Ilbo. (2013). Newspaper survey on social enterprise.
- Kim, J. (2013). Current Social Enterprise Issues and Policies in Korea. [online] Available at: <http://3rdNationalSocialEnterpriseConferenceofCambodia> [Accessed 2 Mar. 2014].
- Kim, J. and Moon, S. (2015). Bankruptcy bill held up: Disputes complexity hinder passage. *JoongAng Daily*. [online] Available at: <http://joongangdaily.joins.com/200502/16/200502162228271539900090509051.html> [Accessed 20 Mar. 2014].
- Kim, M. (2013). In economics, focus is on jobs, welfare. *Korea JoongAng Daily*. [online] Available at: <http://bit.ly/1gJqGu7> [Accessed 22 Mar. 2014].
- Kim, Y. (2013). Tyranny of the Haves and the Youngâ€™s Struggle for Survival. *The University of Seoul English Magazine*. [online] Available at: <http://times.uos.ac.kr/news/articleView.html?idxno=1467> [Accessed 27 Mar. 2014].
- Kim, Y., Yoon, S. and Kim, H. (2014). An Economic Perspective and Policy Implication for Social Enterprise. *American Journal of Applied Sciences*, 11(3), pp.406-413.
- Korean Social Enterprise Promotion Agency, (2012). *What is a Preliminary Social Enterprise?* < Korea Social Enterprise Promotion Agency. [online] Available at: <http://socialenterprise.or.kr/eng/info/reserve.do> [Accessed 24 Mar. 2014].
- Kuan, Y. and Wang, S. (2009). Is Government's Intervention Too Much? An Analysis of the Impact Public Authorities on the Development of Social Enterprises in Taiwan. *EMES Conferences Selected Papers Series*. [online] Available at: <http://www.emes.net> [Accessed 27 Mar. 2014].
- Legatum, (2013). *Legatum Prosperity Index*. [online] Available at: <http://www.prosperity.com/#!/country/> [Accessed 25 Mar. 2014].
- Mendell, M. and Nogales, R. (2012). Solidarity Finance. *Universitas Forum*, 3(2), pp.1~18.
- Ministry of Employment and Labor, (2013). “2013년 사회적기업 인증계획” 발표 [*Social Enterprise certification plan announced*]. [online] Available at: <http://www.moel.go.kr> [Accessed 16 Apr. 2015].
- Ministry of Security and Public Administration, (2012). 일자리 만들고, 다문화여성 지원하고, 전통시장활성화까지 [*Create Jobs, Support Multicultural Women and Enable Traditional Market*]. [online] Available at: [http://www.mospa.go.kr/frt/bbs/type010/commonSelectBoardArticle.do?sessionId=B11cpF3dm0Cm3qWIKn1iAYVjub1hg7GjVqzesAfT1GZ6Uf2A2fPsa6jOR1JhMLWT.mopwas52\\_servlet\\_engine1?bbsId=BB SMSTR\\_000000000008&ntId=29469](http://www.mospa.go.kr/frt/bbs/type010/commonSelectBoardArticle.do?sessionId=B11cpF3dm0Cm3qWIKn1iAYVjub1hg7GjVqzesAfT1GZ6Uf2A2fPsa6jOR1JhMLWT.mopwas52_servlet_engine1?bbsId=BB SMSTR_000000000008&ntId=29469) [Accessed 22 Mar. 2014].
- Park, J. (2010). Consolidation and Reform of Financial Market Regulation in Korea: Financial Investment Services and Capital Markets Act. *National Taiwan University Law Review*.
- Park, Y. (1990). Development Lessons from Asia: The Role of Government in South Korea and Taiwan. *The American Economic Review*, 80(2), pp.118~121.
- PricewaterhouseCoopers, (2008). *Entering the South Korean financial services Market*. [online] Available at: [http://www.pwc.com/en\\_GX/gx/financial-services/pdf/pwc\\_fs\\_manda\\_korea.pdf](http://www.pwc.com/en_GX/gx/financial-services/pdf/pwc_fs_manda_korea.pdf) [Accessed 20 Mar. 2014].
- Social Enterprise Promotion Act, (2007).
- Sorkin, A. (2013). Plan to Finance Philanthropy Shows the Power of a Simple Question. *The New York Times*. [online] Available at: [http://dealbook.nytimes.com/2013/11/11/plan-to-finance-philanthropy-shows-the-power-of-a-simple-question/?\\_r=0](http://dealbook.nytimes.com/2013/11/11/plan-to-finance-philanthropy-shows-the-power-of-a-simple-question/?_r=0) [Accessed 2 Mar. 2014].
- Wohn, D. (2005). Debtors abandon payments. *JoongAng Daily*. [online] Available at: <http://bit.ly/1fMsZ3m> [Accessed 22 Mar. 2014].
- World Bank, (2013). *Doing Business 2013*. [online] Available at: [http://www.wds.worldbank.org/external/default/WDSCContentServer/WDSP/IB/2013/01/22/000333037\\_20130122103937/Rendered/PDF/NonAsciiFilename0.pdf](http://www.wds.worldbank.org/external/default/WDSCContentServer/WDSP/IB/2013/01/22/000333037_20130122103937/Rendered/PDF/NonAsciiFilename0.pdf) [Accessed 25 Mar. 2014].