

Reframing the Chaebols: A Case Study Investigating Economic Regulation without Public Power

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If the U.S. sought to reduce economic concentration abroad after WWII, why did the South Korean economy become increasingly concentrated once the U.S.? This paper seeks to recontextualize South Korea's economy in relation to chaebols using American antitrust policy and countervailing power. This paper is focused on the impact of absence of public power (democratically elected government that represents the public's interests) to countervail private power. Government corruption and lack of public accountability in reigning in chaebols seem to be the primary cause of this systemic economic concentration, stemming from the country's attempt to compete in a global market. Furthermore, the US's lack of involvement in creating a democratic government from the 1950s to 1980s enabled political regimes to operate out of their own self-interest. While at times, the South Korean government sought to bring economic reform, chaebols bribed their way out of trouble, to the point of receiving preferential treatment from the Korean government. While chaebols succeeded in bolstering the South Korean economy, chaebols still maintain a firm hold over the economy and hold enormous influence over the government, preventing wide-scale regulation and economic reform.

Introduction

During the 1930s, the Great Depression shook the global economy, leading to a worldwide rise in industry cartels which would later help stabilize against the economic downturn. However, while U.S. antitrust laws helped regulate and contain cartel growth domestically, Europe's lack of action against cartels led to more acute economic concentration. In fact, at that point, cartels in industries accounted for 42% of world trade¹.

This was especially stark in Germany, for which steel, coal, and rubber trusts were easy pickings for the Nazis to militarize rapidly². Whereas the U.S. was largely uninterested in foreign cartels before the war, in the years after 1945, the Department of Justice's Antitrust Division began enforcing antitrust laws with renewed vigor¹. This change was because the U.S. had attributed World War II and the rise of Nazism in part to Europe's weak control and regulation of economic concentration².

By the end of World War II, the U.S. had sustained less damage than their war-torn European counterparts. With an unprecedented level of global political power, both as a strong industrial state and economic powerhouse, the U.S. was particularly well positioned to exert its influence on the world stage. If the rise of European authoritarianism was indeed fueled by excessive economic concentration and the U.S. was committed to preventing authoritarian regimes elsewhere, it was in the U.S.'s interest to ensure the rigorous regulation of corporate power across the globe. Furthermore, part of the U.S.'s Cold War strategy was to maintain influence by rebuilding governments (in a capitalist

and economically liberal model resembling the U.S. economy). Emerging countries became proxies for an ideological conflict between the U.S. and the Soviet Union. Korea was the first of the countries to be brought into the conflict.

One element of the U.S.'s involvement in South Korea was constructing the country's antitrust policy. Given the U.S.'s concerns about economic concentration and the rise of authoritarianism, one might at first expect the post-war Korean economy to be optimized for flourishing economic competition. Instead, we find an economy of heavily concentrated markets dominated by chaebols. Chaebols were family conglomerates with diverse investments and businesses³. Why might that have been the case?

Despite the U.S.'s involvement in constructing Korea's antitrust regulatory infrastructure, U.S. involvement in Korea ceased in 1950, leaving the peninsula to its own. The Korean government depended on concentrated corporate power, specifically chaebols, to develop its economy after WWII. While the South Korean government became increasingly corrupt, chaebol economic concentration enabled South Korea to enter the world economy competitively. Despite a robust, American-influenced antitrust legal regime, widespread corruption within the South Korean government prevented proper antitrust enforcement, distorting domestic market competition, and making the economy vulnerable to the 1997 Asian Financial Crisis.

U.S. Antitrust Law in Context

To understand the antitrust institutions constructed by the U.S. in South Korea, we must first understand the U.S.'s own antitrust institutions and regulatory mindset in the wake of World War II. Antitrust laws are a series of laws and policies that govern markets. In the United States, antitrust laws encourage market competition by blocking unfair mergers and acquisitions, prosecuting cartels, and holding companies accountable for anti-competitive conduct. While companies can become a monopoly by having a superior product, they cannot acquire or merge into monopoly control, or otherwise unfairly exclude competitors from a market⁴.

Antitrust laws are built to protect the citizens of a nation from business manipulation⁵. Therefore, not taking adequate regulatory measures degrade a democratic society. When firms are not accountable to government regulation, they can expand and merge to an abnormal degree. The State may then concede government power to firms that control large swathes of the economy. State antitrust institutions regulate to prevent or correct monopolistic or anticompetitive actions—they act in the public's interest. Private powers, however, are private precisely because they act in self-interest. If a private power has near or complete control over a market, those private powers will maximize their profit margins while slowing down innovation and therefore competition (which is in the public interest).

At heart, in a democratic society, antitrust law serves to keep private power in check. By "private power," I mean power that is not accountable to the democratic polity and instead is power exercised in the interests of a particular individual or corporation. By contrast, "public power" means the power of "the people." In a democratic society, public power is vested in and acted upon through the mechanisms of the democratic State. The authoritarian State, however, is not legitimately a voice of public power because, by definition, authoritarian governments cannot represent public and are thus not accountable to the people. Likewise, if key industries become excessively concentrated, an authoritarian State might take hold of market power without the public's permission and utilize monopolistic power to quickly industrialize or even militarize⁶. Having consolidated power under one entity, the authoritarian State can act on behalf of its interests, separated from the people's. Antitrust law regulates companies and corporations and prevents authoritarian regimes from taking power away from private entities.

Sometimes concentration is necessary; private powers might form cartels to prevent a financial crisis, like during the Great Depression during the 1930s. After WWII, antitrust institutions were seen to prevent the rise of authoritarianism, especially after the Great Depression and the rise of Nazi Germany¹. The U.S. gained global political influence because the U.S. not only endured minimal infrastructure damage, leaving the U.S. unscathed relative to its allies and France. As the U.S. sent financial

and humanitarian aid abroad and helped rebuild foreign governments, antitrust laws prevented uncompetitive market actions. Namely, the German, Japanese, and South Korean governments were reorganized under U.S. guidance. While Western Germany and Japan's economies in the 1950s grew, the Korean peninsula became a proxy war between the United States and the Soviet Union.

Korea's Economy and Rapid Industrialization

After defeating Japan in WWII, U.S. military forces occupied Korea. While the U.S. suggested the U.N. supervise nationwide elections in Korea, the U.S.S.R. sought to exert communist influence on the peninsula, and war soon broke out. Tensions grew as the U.S. and Soviet Union sought to create spheres of influence, and on June 25th, 1950, North Korea invaded South Korea. While South Korea was under U.S. martial law, due to the peninsula's volatility, the U.S. could not hold elections to create a South Korean government, so the U.S. appointed Syngman Rhee as president⁷. While the U.S. had originally encouraged democratic elections, the American policy and military were unprepared to build a new government. Instead, the U.S. prioritized electing anti-communist leaders over democratically elected ones. The U.S. backed Syngman Rhee as President of the Republic of Korea due to Rhee's ties with the U.S. during the Japanese occupation of Korea. While Rhee was relatively unknown in local Korean politics, the U.S. occupational government favored Rhee for his fluency in English, and his political rivals quickly fell in line.

While the South Korean economy was largely based on agriculture, there were some factories and infrastructure leftover from the Japanese occupation period: the country had the potential to industrialize. Some farmers were granted land ownership for the farmland on which they had labored, and by 1970, around 40% of Korean farmers owned land⁸. Others bought property for 15% of the value and paid continuous payments over 15 years⁸. By September 1948, Koreans had bought more than 96 percent of the formerly Japanese-owned land, and in 1949, land formerly held by absentee Korean landlords had been mostly bought out as well. Those who were able to accumulate capital were able to buy and privatize previously owned Japanese properties and factories: this was the rise of chaebols.

Korea's largest chaebols—like Samsung, Hyundai, S.K., L.G., and Lotte—often focused on petrochemicals, automobiles, electronics, and heavy machines and rose to power in the earlier days of the new South Korean government. Throughout the mid-20th century, chaebols represented Korea on the global market. The Korean government subsidized and bailed out chaebols, as chaebols acted as the backbone of South Korea's G.D.P. chaebol economic concentration consisted of three factors: 1) State policies encouraging the creation of conglomerates to compete with foreign companies. 2) Successful chaebols were involved

in war-related business during the Vietnam War and continued to grow after the war ended. 3) The G.T.C. (General Trade Company) encouraged chaebols to diversify their businesses and to merge or acquire other firms. The courts also took a very hands-off approach, allowing companies to operate with little oversight.

In fact, in the 1950s chaebols had a 100% monopolization on sugar and textiles, monopolies in shipbuilding and automobiles through the 1960s and 1970s, and by 1978, over 200 enterprises had either monopoly or oligopoly in 148 products.¹³ The hands of Korean antitrust agencies were tied. If the State allowed these large companies to fail, they would have dragged the Korean economy down. Backed up by the government if they failed, chaebols spent money on speculative ventures and purchased lands and buildings.

To make matters worse, around 1956, South Korea's economy lagged behind North Korea, and the country was still heavily reliant on U.S. foreign aid. While the U.S. turned a blind eye to South Korean authoritarianism and corruption because of the Truman Doctrine, Rhee was eventually overthrown in 1961 by Park Junghee⁹. While the Junghee regime purged thousands of bureaucrats, the regime also gave preferential treatment to chaebols⁹. Chaebols, supported by the Korean government, rapidly expanded but increased economic concentration and expanded into other markets. The Heavy and Chemical Industry Policy ("H.C.I. policy") was a series of acts that designated six industries (non-ferrous metal, shipbuilding, chemical engineering, electronics, steel, and machinery) as sectors to invest in. Incentives included easy access to foreign and domestic credit, tax breaks, and public provision of infrastructure⁸. As a result, from 1973 to 1978, 46 of the largest chaebol business groups grew at an average rate of 22.8% while the national G.D.P. was 9.9%⁸. Large chaebols that followed the recommendations of the Korean Government became faithful partners and established a stronger and more intimate relationship with the State. They could easily concentrate capital and diversify in unrelated and related areas. In 1972, the 30 largest chaebols owned an average of 7.5 firms, whereas, in 1979, the top 30 chaebols had approximately 25.4 firms spread into 17.6 different sectors⁸.

However, the Korean economy did not support domestic competition. Years of government corruption and bribery led to antidemocratic incentives and rewards, leading to increased sales growth, but not long-term economic stability. This prevented the market from naturally growing and distorted vital industries. To make matters worse, the government repeatedly bailed out failing companies, establishing a bad precedent that encouraged companies to continue making speculative investments. These risky investments were continuously bailed out. Despite the new economic policies to combat this issue, chaebols continued to grow disproportionately by hiring in excess to receive government-sanctioned rewards. To a degree, the South Korean government encouraged chaebol monopolization to make sure

capitalists followed the government's political goals, creating decreased internal competition⁸.

Chaebol conglomerates were responsible for bribing the government to receive preferential treatment and grants to key industries. Though new economic policies sought to break up monopolies, the court's generally vague and ineffective application did little to change chaebol domination. Economic competition was distorted, and firms in the government's good graces only further benefitted and stalled economic development. Despite inherent economic flaws, South Korean government officials did little to make any substantial change, doing little to support its citizens.

Results

To better understand the rise of chaebols and the South Korean government in the 1950s, one must clarify that it is incorrect to use U.S. antitrust law to evaluate South Korea. By the 1950s, the U.S. was a well-established representative democracy: the citizens of the nation determine the power of the State, and the U.S. government acts in the public's interest. We can call this public power⁶. Conversely, private power is not accountable to the collective or "the people." With the rise of the liberal democratic State, private power exists in the non-public sphere—on the market, in personal relationships, in the intimate sphere, etc⁶. While these interactions may well be accountable to the democratic State because the State is theoretically representative of the people's will, obedience to the State and its laws is not arbitrary. Private power is unrepresentative of 'the people' and is exercised arbitrarily.

Countervailing power is when two equal powers keep each other in check¹⁰. Consumers and workers countervail businesses. Private firms are countervailed and kept in check by the government. In the U.S., public and private power countervail one another, as public power regulates markets while private power seeks to maximize its control over competitors. Therefore, antitrust laws act as a tool that public power can use to regulate private powers. In post-war Korea, we do not see public and private powers countervailing one another but cooperating. Antitrust regulation works best only when exercised by a democratically accountable State. Korea started elections in 1987, during the 6th Republic, 39 years after the country's founding in 1948. Without elections by the Korean people, the Korean government cannot properly represent the people. Then, the Korean State of the 1950s was not a public power.

While the ChungHee regime may have acted out of altruism, the regime was not democratically elected, meaning that the South Korean government was not a public power. While Korea gave new opportunities to formerly unknown or repressed groups, chaebols often bribed, blackmailed, or extorted their way into Korea's economy, embedding themselves deep into Korea's key infrastructure. Nonexistent public power allowed

chaebols to grow without much regulation, and government corruption propped up chaebol companies to grow uncontrollably, creating an inflated economy that could burst at any moment.

This distinction completely reframes Korean economic development and economic concentration. Until 1987, the government, while at times acting out of benevolence, was never a direct representation of the people. The South Korean government of the 1950s was closer to a private power. The Korean regimes did not inherently act as the public's direct representatives and instead operated on self-interests. The countervailing power between public and private power distorted into a countervailing relationship between a private government and the private corporate interests of chaebols, without any form of public representation. Without a democratically elected government, South Koreans had little representation in economic and political decisions. Even when lawmakers attempted to reform and regulate the economy, they faced monumental pushback from chaebols. Over time, those private interests lifted the Korean economy to the top. When true public power emerged and regulation loomed, those conglomerates stalled and bribed to retain as much market control as possible. It was only because of pressure from the U.S. and other nations that Korea's economic trajectory changed⁷.

In 1996, the Republic of Korea entered the Organization for Economic Co-operation and Development ("OECD") and became one of the members of the "rich and developed countries."⁸ While the country seemed to prosper, short-term money flow used to finance long-term investments caused a mismatch between the term structure of liabilities owed to foreign investors, and assets funded by that debt. The mismatch created was quite troublesome: if foreign investors decided to withdraw their funds, a liquidity crisis would likely happen, as no liquid funds were available to pay the investors. With the 1997 Asian Financial Crisis, the Korean won nearly collapsed and suffered a recession, forcing the country to restructure its economy and adopt regulation agencies to prevent economic concentration⁹. But without the government becoming a public power, the consequences of the crisis could have been much worse.

Conclusion

The value of Korea's conglomerates is far-reaching. Without Hyundai and Samsung, Korea would've never become one of the "Four Asian Tigers." If not economic concentration, Korea's rapid success can be attributed to the rapid rise of human capital to young people that facilitated training through conventional educational institutions or even the increase in university graduates specialized in science and engineering. The rise of human capital could be continued pre-war growth, bolstered by South Korea investing roughly 30% of G.D.P. for several decades⁷. In short, South Korea was well-positioned for rapid economic growth. At least some of what occurred would appear to be

simply an example of neoclassical convergence from an unusual starting point. In sum, one could characterize post-war South Korea as an economy that had begun industrialization experienced a political upheaval and a devastating civil war and was essentially engaged in catch-up along a reasonably well-defined industrial path defined by Japan.

Another argument is that family conglomerates formed out of self-preservation. The formation of cartels during near economic upheaval, for example, is an act of self-preservation and even serves the interests of the whole. These distortions entailed overproduction, which cartels could address by restricting output and allocating markets. Consolidated conglomerate power could be seen as self-preservation and merging to compete with foreign markets⁵. If Korea had little to no economic concentration directly after the war, the Korean economy would have still lagged behind. A similar instance of economic concentration occurred in Japan, the Japanese Diet relaxing restrictions on economic concentration to develop Japan's economy¹¹. Perhaps even chaebols first existed to establish market order in an unstable period, only causing harm by outstaying their welcome and abusing their found power.

All this said antitrust enforcement did ultimately take root in Korea. In 1981, the Korean government formed the Korean Fair-Trade Commission (K.F.T.C.) to promote fair competition in the market and help consumers make reasonable choices in their purchasing decisions³. Since 1994, it has acted as an independent agency, and in 1996, the chairperson position was elevated from vice-ministerial to ministerial. Like its U.S. counterpart, the K.F.T.C. seeks to facilitate healthy market competition, protect consumer rights, and enhance company transparency. In June 2020, Hyundai Heavy Industries was fined 970 million won for unfair trade with its subcontractors. In 2021, the K.F.T.C. fined five Samsung Group affiliates 234.9 billion won for sweetheart deals with its affiliate, Samsung Welstory. Since the late 1990s, new fast-growing self-made chaebols such as Naver and Kakao have grown exponentially, expanding into global market spaces. While they've grown into considerable conglomerates and corporations, they've at least grown without the crutch of government favoritism⁸. Despite increased antitrust and antimonopoly enforcement, chaebols still hold a considerable degree of influence on the Korean government today.

Ultimately, postwar South Korea chose the lesser evil. It strengthened its economy through larger entities to compete in the international market. Though this was effective in rapidly industrializing the Korean economy, had the government implemented more effective reform, company power could have been reduced, so Korea's economic profile might have been more stable during the 1997 crisis. Though chaebol family groups continue to influence political and economic direction, the K.F.T.C. and changing demographics are a welcome sight in a time of deep economic horizontal and vertical concentration. While Korea's political climate is settling and economic

enforcement is strengthening, the legacy of the chaebol still exists today.

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