

Neither Gridlock nor Moderation, but Administrative Recharge :

The Irony of Divided Government in South Korea

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· **Keyword:** Divided government, Inter-branch gridlock, Centrist moderation, Administrative recharge, Legislative process, South Korea

【ABSTRACT】

This paper shows that, in a country with a strong administrative apparatus and a tradition of executive predominance, divided government encourages the President and his entourage to bypass legislative processes and instead recharge administrative policymaking capability. Split partisan rule, therefore, does not necessarily generate inter-branch gridlock or centrist moderation in the legislative arena. South Korea since 1987 exemplifies this argument: periods of divided government coincided with the relatively increased use of administrative policy tools. Divided partisan rule, supposedly a recipe for institutional balance between the legislative and executive branches, has ironically re-energized the administrative state deep-rooted in the Korean political soil. It is suggested that divided government may not fundamentally alter the course of a political system; divided government may matter only in a limited sense of reinforcing the current character of governance.

I. Introduction

Does divided government bring policy moderation or policy gridlock? This question has stirred intense debates and has divided the political science community. If centrist moderation is a usual outcome, divided rule of government by competing parties may be a blessing.¹⁾ If inter-branch stalemates typically describe what happens, critics of divided government may deserve a rewarding vindication.²⁾ But what if neither moderation nor gridlock follows for a sustained period? Isn't there a good possibility that some alternative results characterize the governance under two rival parties each controlling one branch of government?

This paper demonstrates one of those alternative results. It argues that, in a country with a strong administrative apparatus and a tradition of executive predominance, divided government prompts a recharge of administrative policymaking capability. When a political party opposing the President takes a majority of parliamentary seats, the executive counterpart would want to bypass the legislative process and instead more heavily resort to administrative policy tools available. This kind of governance fully utilizing administrative policymaking has a fair chance not to bring either inter-branch gridlock or centrist moderation in the legislative arena. Partisan fights would surely mount between the President and the opposition party-dominant legislature, as the latter turns more assertive and defiant. Executive-initiated policy proposals would have a hard time in parliament. But the executive branch can maintain its hegemonic status in policy areas, by resorting to executive decrees and administrative orders.

A case in point is divided government in South Korea. The country began a transition process from authoritarian rule to democratization in 1987. Since then, the times of divided government have coincided with a relative, if not absolute, surge in presidential decrees, ministerial ordinances, executive orders, and administrative regulations. Certainly, under divided government, Korean legislators became more active and assertive on legislative issues, raising levels of partisan and institutional conflict throughout the legislative process. But invigoration of the legislature motivated players

1) Not all agree on the virtue of centrist moderation. While centrist moderation is a key catchphrase for the pluralists who search for balanced compromises and optimal aggregations of diverse interests, moral absolutists of the left and right alike, with a strong sense of self-righteousness, would dismiss centrist moderation as an opportunistic co-optation and a setback to their infallible principle.

2) Despite its negative nuance, inter-branch gridlock is not perceived by everyone to be bad in itself. It can help protect civil society from excessive government activism. After all, making no policy is better than producing a lot of bad policies.

from the executive side to recharge their administrative policymaking capacity as a main mechanism for governance. While the executive branch introduced fewer bills to parliament,³⁾ its administrative policymaking rather increased at least in a relative sense. Ironically, divided government, supposedly a recipe for institutional balance between government branches, further bolstered the administrative state in South Korea.

This kind of administrative recharge witnessed in South Korea as a consequence of split partisan rule of government, however, would require a few preconditions. For example, there must be a strong administrative apparatus to carry out an increased load of administrative policies. Also, the President must have dominating influence over administrative agencies so that, when faced with a hostile congress, he can readily resort to administrative policy-making. Additionally, the legislature is not supposed to possess political power strong enough to effectively control or prevent administrative policymaking. In other words, the presence of a formidable administrative state substantially insulated from legislators' influences is necessary for administrative recharge in times of divided government. South Korea, an unequivocal example of a strong—some would say hyper-strong—administrative state, fully satisfies these preconditions.

What theoretical implications can we draw from the South Korean experience with divided government? It suggests a need to broaden our perspective with respect to consequences of divided government. Debates on divided government, particularly those in the U.S., have largely centered around which one, gridlock or moderation, is a general outcome. Alternative possibilities have received little attention. This paper attests to a limitation of the dichotomous gridlock-or-moderation debate. Divided government might generate neither moderation nor gridlock between congress and the President sharing legislative powers; it might instead invite a change in other parts of governance. In the case of South Korean divided government, the non-legislative administrative arena was activated, apart from a legislative gridlock-or-moderation bifurcation. The American political contexts might condition yet another peculiar outcome: for example, Richard Nixon, hoping to break the bounds of legislative gridlock without moderating his positions, attempted a sort of institutional imperialism for a while to the point of eventually breaking the laws and incurring the Watergate crisis.⁴⁾ A

3) Unlike in the U.S. where only members of Congress have a privilege of bill sponsorship, the executive branch in South Korea shares with the legislature the formal right to introduce legislative bills.

4) I owe David Mayhew for the idea that an attempt by either one of feuding branches at

sole concentration on the gridlock–moderation dichotomy blocks our vision away from a fuller range of possible outcomes in governance that divided government might be associated with.

A case study of South Korea alone, of course, fails to produce a firm generalized knowledge valid in all other cases of divided government. The U.S. political system, for instance, is vastly different from that in South Korea; it lacks the preconditions for administrative re-consolidation under divided government. The U.S. Congress, especially when the party opposing the President controls it, is better equipped to resist executive attempts at excessive administrative policymaking. It has arguably commanded its power of delegation and oversight as an effective means to tighten its grip on administrative agencies. The President enjoys no decisive clout over administrative policymaking arena. Far from an ideal-type case of administrative state, therefore, the U.S. is not likely to feature the same degree of administrative recharge as in South Korea. But, nonetheless, this paper delivers a general lesson worthy of comparative examination in various political systems including the U.S.: aside from if and how inter-branch confrontations in divided government affect the legislative process, their impact may be spilled over to other aspects of governance, one example of which is administrative policymaking.

Considering governance in a broader sense beyond the gridlock-versus-moderation dichotomy allows a new note in evaluating divided government. In South Korea, divided partisan rule has not significantly turned governance either to gridlock or to moderation for a sustained period. It has rather ironically re-energized the existing administrative state deep-rooted in the Korean political soil. At the apparent risk of “fallacy of composition,” it could be then surmised that divided government in general, too, may not fundamentally alter the course of a political system; divided government may only reinforce what already characterizes the current status. After all, divided government may be more a resulting symptom of some fundamental forces, whatever they are, than a key cause *per se* (re)defining the character of governance.

Divided government, it is suggested, may matter only in a limited sense of consolidating the current character of governance and re-affirming the fundamental base of the polity. This speculative thinking, certainly subject to empirical scrutiny,

institutional imperialism and dominance represents an alternative outcome under divided government. In my talk with him, he suggested the Watergate case and the post-Civil War domination by the Republican Congress over the not-really-Republican president Andrew Johnson as two such examples showing a move to break the gridlock-or-moderation bounds by one of the two major U.S. institutions under divided government.

sends a comparative message to the U.S. case, too: a delicate balance of power between government branches, the defining and longstanding feature of the American polity, is likely to be further strengthened under divided government. Whether this re-strengthening of institutional balance promotes centrist moderation or extreme gridlock in the legislative arena may depend on what has so far been a fundamental nature of American politics. Should moderation better describe the American political system, divided government would further promote it; should gridlock be a more defining concept of the American polity, tougher gridlock would ensue under divided government.

The following pages elaborate on the points sketched in this introductory section. Section II reviews the political science literature and theorizes on the outcomes of divided government in a setting of strong administrative state. This theoretical speculation is empirically tested in Section III with reference to South Koreans' experience with divided government. Section IV discusses in detail the comparative implications that the administrative recharge under South Korean divided government suggests on such broad topics as democracy and governance. The concluding Section V sums up and then points out several limitations of this paper, acknowledging a need for more refined future research.

II. Critiquing the Gridlock-Moderation Dichotomy and Theorizing about Administrative Recharge

The American political science community has addressed as a key research question what consequences a split partisan control of government brings. Amid intense debates, there has risen little disagreement on at least one point: divided government tilts power balance in inter-branch relations. Many studies commonly illustrate that, under divided government, the President's legislative influence vis-à-vis Congress clearly dwindles on each stage of the legislative process from agenda setting to final decision-making.⁵⁾

5) George C. Edwards, III, and Andrew Barrett, "Presidential Agenda Setting in Congress," in Jon R. Bond and Richard Fleisher, eds, *Polarized Politics: Congress and the President in a Partisan Era* (Washington, D.C.: CQ Press, 2000); Barbara Sinclair, "Hostile Partners: The President, Congress, and Lawmaking in the Partisan 1990's," in Jon R. Bond and Richard Fleisher, eds, *Polarized Politics: Congress and the President in a Partisan Era* (Washington, D.C.: CQ Press, 2000); Richard Fleisher and Jon R. Bond, "Partisanship and the President's Quest for Votes on the Floor of Congress," in Jon R. Bond and Richard Fleisher, eds, *Polarized Politics: Congress and the President in a Partisan Era* (Washington, D.C.: CQ Press, 2000).

This consensus on a relative decline of presidential clout under divided government, however, leads to no definitive conclusion as to whether moderation or gridlock usually follows. Diverse views are roughly lumped into two opposite camps. On one side, a long list of scholars charge divided government with aggravating policy gridlock and deepening governance crisis.⁶⁾ This “gridlock” critique nicely resonates with the time-honored conventional wisdom that party unity and discipline alleviate the constitutionally-generated tension between government branches and thereby help make the government work. Divided rule of government by two rival parties would nullify this constructive role of parties.

But on the other side, different lines of works dismiss this accusation. According to one version of argument, divided government does not necessarily cause policymaking inefficiency, let alone gridlock crisis in governance.⁷⁾ Some of these works go even further and argue that divided government better serves diverse interests and facilitates coordination and cooperation in passing legislations, consequently easing governance problems.⁸⁾ Defenders of divided government report a series of policy achievements in the latter half of 1990’s under divided rule; they compare this period with the apparently paralyzed two years, 1993 and 1994, under Democratic unified government.⁹⁾ In their

6) Lloyd N. Cutler, “To Form a Government,” *Foreign Affairs* 59 (Fall, 1980); James L. Sundquist, “Strengthening the National Parties,” in A. James Reichley, ed, *Elections American Style* (Washington, D.C.: Brookings Institution, 1987); Gary W. Cox and Samuel Kernell, eds, *The Politics of Divided Government* (Boulder, Colo.: Westview, 1991); Edwards and Barrett(2000); Sarah A. Binder, “Going Nowhere: A Gridlocked Congress?” *The Brookings Review* 18, 1, (2000); Sarah A. Binder, “Congress, the Executive, and the Production of Public Policy: United We Govern?” in Lawrence C. Dodd and Bruce I. Oppenheimer, eds, *Congress Reconsidered*, 7th edition (Washington, D.C.: CQ Press, 2001).

7) David R. Mayhew, *Divided We Govern: Party Control, Lawmaking, and Investigation, 1946~1990* (New Haven, CT: Yale University Press, 1991); Keith Krehbiel, *Pivotal Politics: A Theory of U.S. Lawmaking* (Chicago: The University of Chicago Press, 1998); David W. Brady and Craig Volden, *Revolving Gridlock* (Boulder, Colo.: Westview, 1998).

8) Morris P. Fiorina, *Divided Government* (N.Y.: Macmillan, 1992); Martin A. Levin and Marc K. Landy, “Durability and Change,” in Martin A. Levin, Marc K. Landy, and Martin Shapiro, eds, *Seeking the Center: Politics and Policymaking at the New Century* (Washington, D.C.: Georgetown University Press, 2001); Sidney M. Milkis, “Bill Clinton and the Politics of Divided Democracy,” in Martin A. Levin, Marc K. Landy, and Martin Shapiro, eds, *Seeking the Center: Politics and Policymaking at the New Century* (Washington, D.C.: Georgetown University Press, 2001).

9) Levin et al(2001); Milkis(2001); David R. Mayhew, “Much Huffing and Puffing, Little Change,” in Martin A. Levin, Marc K. Landy, and Martin Shapiro, eds, *Seeking the Center: Politics and Policymaking at the New Century* (Washington, D.C.: Georgetown University Press, 2001); E. J. Dionne, Jr, “Why Americans Hate Politics,” *The Brookings Review* 18, 1, (2000); Allen Schick, “A Surplus, If We Can Keep It,” *The Brookings Review*, 18, 1, (2000); Steven E. Schier, ed, *The Postmodern Presidency: Bill Clinton’s Legacy in U.S. Politics* (Pittsburg: University of Pittsburg Press, 2000).

logic, divided government tends to produce moderate politics and middle-of-the-road policy results because the rival parties each controlling one government branch try to appeal to the median voter and avoid the blame for lack of policy achievement; politicians under divided government are motivated toward 'centrist defecting'.¹⁰⁾

Despite laudable theoretical contribution, I notice, the current gridlock-or-moderation debate narrowly confines the scope of our interest to the legislative process only. There is of course no denying that inter-branch dynamics unfold largely in the legislative process. Impacts of divided government are most likely to appear through the stages of law-making and in the contents of legislation. But a single-minded focus on the gridlock-moderation dichotomy allows only a simplistic picture featuring legislators and the President mutually interacting over legislative issues. It leaves little room for a broader range of actors including administrative officials and judicial justices; it also fails to depict legislators and the top executive playing in non-legislative arenas. Administrative agencies with a power to make substantially important, though not legislative, decisions do not loom large in the present literature on the gridlock-moderation bifurcation. Similarly, the President's non-legislative direct actions such as executive orders do not receive due attention in the two-ply gridlock-or-moderation contrast. Administrative policies and presidential direct decisions may not draw as high a public attention as inter-branch haggling over legislative issues does, but still can crucially affect the course of the polity. We will risk analytic breadth by ignoring the possibility that such non-legislative policymaking may significantly differ under unified and divided types of government.

Exclusive concern with the gridlock-moderation dichotomy belittles non-legislative actors and policies, even if considered, as at most marginal. Take an example of Epstein and O'Halloran's acclaimed piece on congressional delegation to administrative agencies.¹¹⁾ They argue that Congress delegates less and tries to constrain executive policymaking more when the level of legislative-executive conflict rises under divided government. This decrease in congressional delegation, in their view, generates 'procedural gridlock': "[S]plit partisan control of our national policy-making institutions, even if it does not lead to legislative gridlock, may result in procedural gridlock—that is, producing executive branch agencies with less authority to make well-reasoned policy and increasingly hamstrung by oversight from congressional committees, interest

10) Anthony Downs, *An Economic Theory of Democracy* (N.Y.: Harper & Row, 1957); Mayhew(2001); Fiorina(1992).

11) David Epstein and Sharyn O'Halloran, *Delegating Powers: A Transaction Cost Politics Approach to Policy Making under Separate Powers* (Cambridge, UK: Cambridge University Press, 1999).

groups, and the courts”.¹²⁾ Epstein and O’Halloran widen our perspective by noting a spill-over effect of inter-branch conflict under divided government into the administrative arena. But they remain in a Congress-centered framework; it is Congress that chooses to delegate less. Administrative bureaucrats are mere passive players with no initiative of their own and bound in the setting that Congress designs and manipulates. In other words, administrative actors and policies only react to the inter-branch dynamics that originate and unfold in the legislative realm.

The legislative-centered viewpoint underpinning Epstein and O’Halloran’s as well as most works on consequences of divided government is no surprise in the American political landscape. There exists a consensus on the centrality of Congress in American politics and the importance of legislation as a keystone policy tool. Theories of congressional delegation and oversight mostly assume the upper hand of Congress vis-à-vis the administrative side.¹³⁾ Even some comparative works on non-American cases approach the issues of legislative delegation and executive policymaking from a standpoint of legislators: for example, Huber and Shipan note that “[d]ivided government in presidential systems and minority government in parliamentary systems both create policy conflict between the legislative majorities and bureaucrats, and, all else equal, both lead to stronger efforts [by legislators] to write detailed statutes”.¹⁴⁾ Carey and Shugart, too, reach a similar legislative-centered conclusion in their study of executive decrees in several Western and Latin American countries: when the executive enjoys no majority partisan support in the legislature, legislators are less likely to delegate decree authority to the executive side.¹⁵⁾

Granted, nonetheless, the presence of administrative and executive agencies equipped with substantial non-legislative policymaking authorities convincingly challenges a narrow look at legislative fields as the sole stage mirroring possible impacts of divided government. Though perhaps less important than the legislative process, the administrative arena featuring non-legislative actors and policies may function and

12) Epstein and O’Halloran(1999), p.11.

13) Morris P. Fiorina, *Congress: Keystone of the Washington Establishment* (New Haven, CT: Yale University Press, 1977); Mathew D. McCubbins and Talbot Page, “A Theory of Congressional Delegation,” in Mathew D. McCubbins and Terry Sullivan, eds, *Congress: Structure and Policy* (Cambridge, UK: Cambridge University Press, 1987); Mathew D. McCubbins and Thomas Schwartz, “Congressional Oversight Overlooked: Police Patrols versus Fire Alarms,” in Mathew D. McCubbins and Terry Sullivan, eds, *Congress: Structure and Policy* (Cambridge, UK: Cambridge University Press, 1987).

14) John D. Huber and Charles R. Shipan, *Deliberate Discretion? The Institutional Foundations of Bureaucratic Autonomy* (Cambridge, UK: Cambridge University Press, 2002), p.16.

15) John M. Carey and Matthew Soberg Shugart, eds, *Executive Decree Authority* (Cambridge, UK: Cambridge University Press, 1998).

change on its own in a critical way according to whether the government is unified or divided. Here rises a need to elevate administrative policymaking to the center stage and study if and how it changes under divided government. Ferejohn is suggestive in this regard: “whether or not Congress chooses to impose such [restrictive] requirements on rule making, agencies will evolve procedures that reflect the level of conflict and uncertainty in their environments.”¹⁶⁾

Extending our interest into a non-legislative dimension has an analytic advantage that a preoccupation with legislative process lacks. The latter presumes continuous interactive moves between the executive and legislative branches through a sequence of alternate choices along the legislative process. Thereby, it overly exaggerates possible occurrences of gridlock or moderation as a consequence of divided partisan rule. In a tick-tack-toe-like legislative game, cooperation between opposing players would inevitably entail centrist moderation in lawmaking; conversely, absence of such cooperation is destined to bring legislative stalemate. This legislative-centered model fails to appreciate a fuller range of other possibilities; for instance, it downplays the seemingly plausible scenario that the President may go alone unilaterally not necessarily engaging in interactions with his congressional counterpart. Faced with an unyielding legislature, the President may want to bypass legislative routines and instead resort to presidential direct actions like executive orders, executive agreements, presidential memoranda, and national security directives. This kind of presidential unilateral strategies, well documented recently,¹⁷⁾ achieves certain policy goals and does not necessarily result in inter-branch gridlock or moderate compromise. A reasonably expected outcome from the heavy use of presidential direct actions seems to evade either gridlock or moderation in a legislative sense.

The same expectation can be said of administrative bureaucrats making decisions on their own initiative. They significantly shape the daily life of citizens through a myriad of regulatory decisions and administrative orders, often on a purely bureaucratic basis with no clear direction, approval, or even interest from the President’s office or congress. Should they step up their policymaking capacity when intensified partisan

16) John A. Ferejohn, “The Structure of Agency Decision Processes,” in Mathew D. McCubbins and Terry Sullivan, eds, *Congress: Structure and Policy* (Cambridge, UK: Cambridge University Press, 1987), p.446.

17) Phillip J. Cooper, *By Order of the President: the Use and Abuse of Executive Direct Action* (Lawrence, KS: University Press of Kansas, 2002); Kenneth R. Mayer, *With the Stroke of a Pen: Executive Orders and Presidential Power* (Princeton, NJ: Princeton University Press, 2001); William G. Howell, *Power without Persuasion: the Politics of Direct Presidential Action* (Princeton, NJ: Princeton University Press, 2003).

conflicts under divided government slow down legislative production, they could lead governance apart from the gridlock-moderation dichotomy. So, generally speaking, executive and administrative arenas starring both the President and administrative bureaucrats acting on their own initiative and not necessarily engaged in sequential interactions with the legislature seem to bear a fair possibility to move the polity to a certain direction other than gridlock or moderation.

The impact of split partisan rule upon non-legislative arenas is likely to be particularly big in a political system with long tradition of executive dominance and strong administrative apparatus. Among a number of such political systems, this paper chooses South Korea for a case study. The contemporary South Korea has experienced several years of divided government. Since the Democratic Movement in 1987, Korean voters have typically chosen a President of one party and have given a parliamentary majority to another party or coalition opposing him. True, no such divided government long survived the post-election political schemes to artificially manufacture a unified government. Presidential parties often seduced and threatened opposition legislators into defecting to the presidential camp; they sometimes merged or formed a political coalition with smaller parties to fabricate a majority in parliament. Accordingly, election-created divided governments and artificially-manufactured unified governments have alternated in a binary cycle. From May 1988 to February 2003, the years spanning the 13th through the first-half of 16th National Assembly, days under divided government totaled to 1,816, as opposed to 3,572 days under unified government.

An important characteristic of the South Korean polity, the main reason for choosing it for a case study here, is its traditional executive dominance. South Koreans have long witnessed a persisting imbalance of power between the "imperial" Presidency and the "peripheral" legislature.¹⁸⁾ In the tyrannical heydays of the 1970's and early 1980's, the Korean National Assembly was no more than a symbolic rubber-stamp with no real power; some even ridiculed it as a "maid" serving self-appointed ex-general Presidents. Even in the 1990's when popularly-elected Presidents with no military background took office, the Korean parliament still remained a secondary branch. Unlike the former general-turned-Presidents, the civilian Presidents had no legitimacy concern and thus, ironically, might have more unhesitatingly ignored the National Assembly in the law-making process. Not bothering to make a symbolic gesture in respect of the legislative branch, they refused to treat it as a co-equal partner institution. This unfortunate situation marks a sharp contrast to the impressive constitutional and electoral

18) Seong-Ho Lim, "A Paradox of Korean Democracy: 50 Years' Experience of the "Imperial" Presidency and the "Peripheral" Legislature," *Korea and World Affairs* 22, 4 (Winter, 1998).

democratization since the late 1980's. In reference to the gap between the democratic progress in constitutional and electoral dimensions and the continuing imbalance in inter-branch relations, we may call Korean democracy "Janus-faced."¹⁹⁾

What would be a usual outcome of divided government in this executive-dominant South Korean polity? As far as inter-branch moderation goes, South Korea represents a least-likely case. It does not satisfy any of the conditions believed to be necessary for centrist defecting and moderate convergence by partisan politicians. Those necessary conditions that a Downsian logic allows to posit are summarized as follows:

- Voters keep attentive to the issue positions of major parties and electoral candidates.
- Issue positions of candidates loom large in voters' electoral choice.
- Voters' issue preferences are uni-dimensional and bell-shaped on a liberal-conservative scale.
- Politicians are "nervous" to appeal to the median voter so as to get as many votes as possible.
- Party unity and discipline are not very strong so that individual politicians have some independence from their party to, if they want, defect to a centrist position.

These conditions for moderation have been largely missing in South Korea. Scholars and journalists in Korea agree that Korean voters generally have not taken the issue positions of parties and electoral candidates as a key factor to consider. In fact, it has often been difficult even to distinguish between parties and candidates on issue positions. The Korean party system has lacked ideological diversity until recently, thus preventing clear position differences in elections; it has been impossible to characterize voters' preferences and politicians' positions on a uni-dimensional liberal-conservative spectrum. A bizarre combination of regional rivalry, partisan loyalty and personal favoritism has instead ruled the Korean electorate's choices and electoral processes. This situation certainly has not motivated Korean politicians to nervously court the presumptive median voter. Partisan politicians would not dare to take a fatal political risk by seeking an independent stance and crossing the party line against strong party discipline. Understandably, centrist defecting and democratic moderation between rival parties under divided government have been a rarity in South Korea.

If moderation is not likely to characterize the relationship between South Korean government branches under split partisan rule, then would gridlock typically ensue? Probably yes, if we considered only the legislative process. In a sequence of tick-tack-toe moves between legislators and the President through the legislative process, a lack

19) Seong-Ho Lim, "Janus-Faced Democratization in South Korea," in Lee-Jay Cho et al, eds, *Korea and the Asia-Pacific Region* (Hawaii: East-West Center, 2000).

of moderation would inevitably mean a stalemate. Non-legislative arenas, however, provide another important stage for Korean politics. Their presence suggests that a failure to earn legislative moderation does not necessarily mean a gridlock situation overall. Certainly, conflicts would rise in the legislative process, as partisans opposing the President take over parliament and block his legislative initiatives. But the President does not have to endure a face-to-face confrontation to every challenge from his legislative counterpart. Faced with a hostile National Assembly, he can walk away from legislative wrangles and go alone by resorting to executive orders instead. Like most of the executive heads in other countries, the Korean President enjoys constitutional powers to bypass the legislative process and still achieve some policy goals. His growing reliance on non-legislative direct actions will recharge administrative policymaking capacity and re-vitalize the administrative state. This administrative resurgence surely raises serious questions about the status of democracy, but may somehow make the government work. It averts prolonged gridlock in policy issues, though it also shuns centrist moderation between government branches.

The administrative recharge under divided government posited here is not a universal phenomenon. It requires certain preconditions. We can theorize such preconditions as follows: it is noteworthy that they describe a semi-democratic system, not a full-fledged democracy:

- There must be a strong administrative apparatus to carry out an increased load of executive and administrative policies.
- The President must have dominating influence over administrative agencies so that, when faced with a hostile congress, he can readily resort to administrative policy-making.
- The legislature possesses no political and institutional leverage strong enough to effectively control or prevent administrative policymaking. This weak status discourages legislators from keeping attentive to administrative policymaking.

In short, the prior establishment of a formidable administrative state dominating over parliament is necessary for administrative recharge in times of divided government. South Korea, an unequivocal example of a strong administrative state and a semi-democratic polity with some remnants of authoritarianism, fully meets these preconditions.

But in a democratic political system with the legislative branch substantially influential over administrative agencies, administrative recharge hardly represents a probable outcome to occur under divided government. The U.S. tops the list of such examples. This theoretical expectation on the unlikelihood of administrative recharge in

a system like the U.S. is in tune with Howell's finding about the politics of direct presidential actions.²⁰⁾ One of his main arguments states that "presidents usually issue more significant unilateral directives during periods of unified government, *ceteris paribus*, than during periods of divided government".²¹⁾ When the opposite party controls Congress, it can more strictly restrain the presidential powers to act unilaterally. Presidents may wish to go alone and exercise their discretion to issue direct actions during periods of divided government; but they tend to refrain from unilateral decisions, fearful of a stronger resistance from the opposition-dominant Congress. The critical difference between Howell's American case and the South Korean case this paper investigates lies in the varying degrees of power balance between government branches. The executive-legislative relations in the U.S. show a relative parity in power; or, at least, Congress can substantially check presidential unilateral actions. By contrast, in South Korea, inter-branch power relationship still remains lopsided, maintaining the longstanding tradition of centralization under the hand of the executive. This difference would explain the reverse results expected to each political system under divided government: heavier legislative restraint on administrative policymaking in the U.S. and, conversely, solid administrative recharge in South Korea.

The next section turns to empirical exploration. To preview, several empirical indicators support the theoretical surmise in this section that divided government in South Korea would invite a recharge of administrative policymaking. Increased conflicts between the President and the recalcitrant National Assembly, a natural result of split partisan rule, dampen his legislative initiatives and hence encourage the executive branch to bypass the legislative arena. Administrative policy options emerge as a more convenient and thus more heavily used tool for governance.

III. Administrative Recharge under South Korean Divided Government

Only the post-Democratization period receives empirical investigation here. Before the 1987 Democratization movement, the authoritarian polity of South Korea had no real chance for split partisan rule. Constitutional and electoral laws unfairly advantageous to the presidential party, a social atmosphere suppressive of anti-government voices, and sometimes outright voting frauds guaranteed tyrannical presidents the backing of big-margin majorities in parliament. The unchecked power of the president, however, began

20) Howell(2003).

21) Howell(2003), p.69.

to crack in 1987 and 1988 amid political upheavals following the Popular Uprising for democracy. The launching of the 13th Assembly in May 1988 marked a new phase in Korea's democratic blossoming: the presidential party failed to garner a majority of parliamentary seats for the first time in Korean history. Ever since, as discussed in the previous section, divided and unified governments have alternately succeeded each other like a revolving door.

As far as the number of public statutes goes, divided government seems less productive. The number per year is 165, compared to 207 under unified government, as Table 1 shows.²²⁾ This comes as no surprise considering that a public statute must go through the legislative process and requires an agreement by both parliament and the President. Interestingly, by contrast, executive and administrative policymaking has not much decreased under divided government; in fact, at least in relative terms, it has somewhat surged. Table 1 indicates that the difference between divided and unified governments in the number of presidential decrees was only marginal: 355 to 379 per year. This means a relative increase in the use of presidential decrees vis-à-vis public statutes during periods of divided government: the ratio of presidential decrees to public statutes is 2.2 for divided government, bigger than 1.8 for unified government. A presidential decree requires no clear specific agreement or even consultation with legislative members, and must have been a more attractive policy tool to presidents faced with a defiant parliament.

〈Table 1〉 Public Statutes and Presidential Decrees in South Korea
(May 1988 ~ February 2003)

	Public statutes promulgated (average annual)	Presidential decrees issued (average annual)	Ratio of presidential decrees to public statutes
Divided government (total 1,816 days)	165	355	2.2
Unified government (total 3,572 days)	207	379	1.8

Table 2 suggests a clearer boost in non-legislative policymaking under split partisan rule. Ordinances of Prime Minister, ministerial ordinances, presidential orders, and

22) The data for all the tables in this section come from the following Korean sources: Websites of the Korean National Assembly (www.assembly.go.kr), the Korean Ministry of Government Legislation (www.moleg.go.kr), and the Korean Regulatory Reform Committee (www.rrc.go.kr), and *Data Collections for Legislative Affairs* (Seoul: National Assembly, 2000).

orders of Prime Minister all increased in times of divided government—in absolute as well as relative terms. In South Korea, the Prime Minister is handpicked by the President and, despite parliamentary confirmation, serves as a loyal presidential agent. Other ministers do not even go through parliamentary confirmation, and they act under a tight control of the President. Ordinances and orders by prime ministers and ministers, therefore, closely reflect the President's revealed or expected preferences. Considering this fact, we can infer from Table 2 that divided partisan rule in South Korea must have motivated the President and his executive entourage to unilaterally use administrative policy options more frequently than when the presidential party took control of the National Assembly and thus the legislative process.

〈Table 2〉 Administrative Decisions in South Korea
(May 1988 ~ February 2003)

	Ordinances of Prime Minister, Ministerial ordinances (average annual)	Presidential orders, Orders of Prime Minister (average annual)
Divided government (total 1,816 days)	405	26
Unified government (total 3,572 days)	396	23

The South Korean President possesses power so broad that, most observers agree, he can even wield influence upon seemingly routine regulatory rulemaking by agencies. If his policy initiatives face a rough treat in the legislative arena, he can bypass the unfriendly battle-field in favor of regulatory decisions. Though many regulations are mere routine decisions made with no clear direction or even interest from the presidential camp, some regulations have significant policy implications and reflect presidential preferences. A sharp increase in the number of new or strengthened regulatory decisions during periods of divided government, which Table 3 shows, implies that the President might have re-energized the administration's regulatory decision-making capacity as a convenient way to unilaterally push his policy programs.

〈Table 3〉 New and Strengthened Regulations in South Korea
(September 1998 ~ February 2003)

	New administrative regulations (average annual)	Strengthened administrative regulations (average annual)
Divided government (total 1,003 days)	369	181
Unified government (total 639 days)	271	115

The relative intensification of executive and administrative policymaking, a conspicuous characteristic of South Korean divided government, marks a clear contrast to the growing difficulty and lessened influence of the executive branch throughout the legislative process. This contrast makes plausible the suspicion that the South Korean President relies on executive and administrative policy tools in order to bypass the hostile legislative arena. Several tables below demonstrate the extent to which divided government weakens the executive side's legislative influence. Table 4 indicates a significant shift in inter-branch power balance on the stage of legislative agenda setting. Under divided government, legislators became more active in sponsoring bills; the number of legislator-sponsored bills sharply climbed. The executive branch, on the other hand, introduced fewer bills. Government types (divided vs. unified) made no visible difference in the total number of bills, but unambiguously tipped the institutional balance in bill introduction toward the National Assembly.

〈Table 4〉 Bill Sponsorship in South Korean National Assembly
(May 1988 ~ February 2003)

	Legislator-sponsored bills (average annual)	Executive-introduced bills (average annual)	Total
Divided government	192	112	304
Unified government	137	158	295

The executive branch's legislative difficulty during periods of divided government was also evident in passing the bills - but to a lesser degree than in agenda setting. As Table 5 reveals, the passage rate of executive-introduced bills declines under divided government. But the difference between unified and divided governments - 88.4% minus 85.8% - seems not very big. Moreover, the passage rate of legislator-sponsored bills also drops in times of divided government. Overall, regardless of bill types, lower percentage of bills passed the final legislative decision-making under divided government. Also note that, despite a slight decrease, well over 80% of executive-introduced bills were passed even under divided government, marking a vast difference from legislator-sponsored bills of which the passage rates stayed around forty something. In short, divided government somewhat lowers the passage rate of executive-introduced bills, but the executive still maintains a huge advantage over the legislative counterpart as far as final passage of bills goes.

(Table 5) Passage Rate of Bills in South Korean National Assembly
(May 1988 ~ February 2003)

	Legislator-sponsored bills	Executive-introduced bills	Total
Divided government	40.6%	85.8%	57.2%
Unified government	47.2%	88.4%	69.3%

Table 5, however, should not be interpreted to downplay a damage that split partisan rule inflicts upon the executive branch's legislative power. A closer look reveals that considerably more bills, legislator-sponsored and executive-introduced alike, get revised in times of divided government before they eventually become public statutes. Table 6 shows an about ten percent jump under divided government in the number of the bills that are passed with revision. The bills the executive side introduces are in general a lot more heavily revised than legislator-sponsored bills, but divided government especially accelerates such bill revision activities.

(Table 6) Bills That Were Passed with Revision in South Korean National Assembly
(May 1988 ~ February 2003)

	Legislator-sponsored bills that were passed with revision	Executive-introduced bills that were passed with revision
Divided government	35.7%	68.1%
Unified government	24.4%	59.5%

The apparent difficulty the South Korean President and his executive entourage faced in initiating and passing their legislative programs coincided with a growing activeness of assembly members when opponents to the President controlled the chamber. The surge in sponsorship and revision of bills, which the above tables show, suggests this vitalization of legislators under divided government. There are other behaviors of assembly members through the legislative process that indicate the same: Table 7 affirms that legislators held a lot longer sessions and had more meetings—in all the floor, committee, and subcommittee levels—under divided government. This relative activation of the legislature, signaling more intense scrutiny and controversy on legislative matters, might have encouraged the presidential camp to bypass legislative routines and instead recharge executive and administrative policymaking during periods of divided government.

〈Table 7〉 Meeting Days in South Korean National Assembly
(May 1988 ~ February 2003)

	Average annual days			
	Session	Floor meetings	Committee meetings (all added)	Subcommittee meetings (all added)
Divided government	277	50	445	205
Unified government	190	46	332	142

Divided government not only motivates assembly members to lengthen their work session; but it also intensifies conflict among them. While majority party members would try to push their agenda at their own pace, minority members from the presidential party would not easily yield the driver's seat to the President's foes. Minority assembly members as loyal agents for the President are not used to retreating to the back stage in such a President-dominant polity as South Korea. Table 8 illustrates a clear rise in intra-chamber hostility under divided government. The average annual number of all demands for censure, reprimand, ethical review, and criminal charge against fellow assembly members reached 10.0 during periods of divided government, much higher than 4.8 under unified government. This hostility in the legislative chamber, certainly not favorable to efficient law-making, may be another factor prompting the executive branch's aversion to legislative options in favor of non-legislative measures.

〈Table 8〉 Hostility among Legislators in South Korean National Assembly
(May 1988 ~ February 2003)

	Demands for censure or reprimand	Demands for ethical review	Motions to allow arrest of legislator for criminal charge	Total number	Average annual number
Divided government	38	4	8	50	10.0
Unified government	26	10	11	47	4.8

To summarize, this section has provided empirical evidences to show a recharge of executive and administrative policymaking under South Korean divided government. The importance of executive decrees, ordinances, orders, and regulatory decisions,

relative to legislations, increased when presidential parties failed to garner a parliamentary majority. Periods of divided government featured the presidential side's growing difficulty in initiating and passing legislative bills, a relative activation of National Assembly, and rising hostilities in the legislative chamber—all of which must have motivated executive officials to bypass the legislative process and resort to executive and administrative tools.

Would, then, assembly members passively accept this reality? U.S. members of Congress would probably not; a number of works including those by Howell²³⁾ and Epstein and O'Halloran²⁴⁾ report a tightened congressional grip on the administrative arena in times of divided government. Legislators in some Western and Latin American countries, too, would try to rein in executive activism when opponents to the president take a majority of parliamentary seats, as argued by Carey and Shugart²⁵⁾ and Huber and Shipan.²⁶⁾ But South Korea fully meets the foregoing preconditions for administrative recharge. The National Assembly remains secondary to the presidential branch and has no powerful weapon to control the administrative arena. Regular annual congressional oversight of the administration, conducted to most of the agencies during a pre-fixed period for only about three weeks a year, has proven to be ineffective and perfunctory. Congressional investigation of agencies, non-periodically conducted when necessary, has been rare and has mostly dealt with political scandals, not substantive policy issues. To be sure, majority assembly members under divided government have actually diminished the President's leverage in the legislative process and have intensified challenges to the executive institution on political fronts. But as far as their defiance to their rival branch is confined to the legislative realm and rhetorical accusations and does not extend to non-legislative policy areas, they would have to, consciously or not, live with the re-energized administrative state.

IV. Theoretical Implications: Does Divided Government Matter to Democracy and Governance?

The South Korean case attests to a need to broaden our debate on divided government. The range of possible outcomes that may occur under divided government is broader

23) Howell(2003).

24) Epstein and O'Halloran(1999).

25) Carey and Shugart(1998).

26) Huber and Shipan(2002).

than the gridlock-moderation dichotomy suggests. In South Korea, divided government injects energy to executive and administrative policymaking. Thanks to this recharge in the non-legislative arena, Korean politicians do not have to agonize between two difficult choices in the legislative process - centrist moderation or partisan gridlock. It is unrealistic for the hegemonic South Korean President and the opposition-dominant National Assembly to lead harmonious governance most of time through mutual moderation and common agreement. Their partisan instinct would not allow this kind of peaceful moderate politics. It is also unlikely for them to continuously stay in a gridlock situation and keep governance in total disarray for long. They would fear a fatal blow that the uncivil and unpredictable game of blaming each other while bogged down in policy stalemate could strike to one or both of the warring camps. Administrative recharge, however, solves this dilemma for Korean politicians. On one hand, they engage in vigorous partisan battles throughout the legislative process; but, on the other, the President and his executive camp resort to non-legislative policy tools, and the opposition party controlling the National Assembly, aware of limitations in its cross-branch leverage, pays little attention to unilateral executive and administrative policies. The upshot is neither moderation nor gridlock, but a re-consolidation of the administrative state as the mainstay of governance in South Korea.

This story of administrative recharge under divided government has theoretical implications for both democracy and governance. First, regarding democracy, the South Korean experience calls for caution in judging the impact of split partisan rule. A conventional wisdom has emphasized a positive role of divided government in promoting democracy. The parliament where partisans opposing the President enjoy a majority would help restore a fair balance of power in government and thereby would prevent an authoritarian rule by the imposing President and his faction. Fiorina noted a service that divided government could do to American democracy.²⁷⁾ In South Korea, a split partisan rule has been hailed by many as a fuel for democratic progress.²⁸⁾ While divided government certainly elevates the relative status and leverage of parliament vis-à-vis the executive, however, power dispersion may take place only in the legislative field. The presidential camp may further upgrade its policymaking capacity in executive and administrative arenas so that it can compensate for a relative loss of its legislative clout.

27) Fiorina(1992).

28) Yong-Ho Kim, (In Korean) "An Evaluation of Unified and Divided Governments since Democratization in Korea," *Korean Party Studies Review* 1, 1, (2002); Seong-Ho Lim, "Divided Government and Legislative Politics in South Korea: Evaluating the Experience of the Late 1980's," Paper presented at the Annual Meeting of the American Political Science Association, August 28-31 (2002).

Then, overall, the disparity in power between government branches may remain and may possibly further deepen. This is what has happened in South Korea. Here lies a reason why we should pause before hastily glorifying divided government as an effective mechanism for democracy.

It is an irony that divided government in a polity with a strong administrative state a.k.a. South Korea further bolsters the upper hand of the executive branch. Either gridlock or moderation would undermine dominance of the executive and would help establish an institutional balance in government. Gridlock would frustrate many of presidential policy programs; moderation would dilute the policy preferences of the President and would enforce him to alter his original position. But the re-vitalization of administrative policymaking, an alternative result in governance under Korean divided government, reaffirms a fundamental character of the Korean political system—i.e., executive hegemony over parliament. In a semi-democratic system like South Korea with a lingering executive superiority, divided government in itself may not be a pure blessing to democracy. Far from a panacea for democratic progress, divided government may only reinforce the status quo inherited from the preceding era of authoritarian rule. Therefore, divided government may not critically matter to democracy at least in a political system where, ironically, democracy is most urgently called for. What a paradox if, as works of American scholars attest,²⁹⁾ divided government empowers congress and sustains power balance in an already-democratic system like the U.S., but not in a most needy place yearning for democratic full blossoming!

This paradox, certainly, does not suggest a complete denial of any link between divided government and democracy. In a country with a long history of parliamentary marginalization and absolute party discipline, split partisan rule can help jump-start a democratic movement in government. Jump-starting provides only a short-term impact, not a stable sustaining effect; nonetheless, it can be valuable if the system has lain dormant for a long time. Right at the beginning juncture of a democratic awakening, divided government can encourage parliamentary assertiveness to the President and his administration. Unified partisan rule would have little effect in this regard, since majority party members in parliament would hardly dare to challenge the President of the same party. True, in an emerging democracy, the parliamentary assertiveness under divided government would remain in the legislative process only, not extending to the administrative arena; it also might be more evident over political matters, not policy issues; and it might not last long enough. Despite these limits, divided government can

29) Epstein and O'Halloran(1999); Howell(2003).

work as a short-term jump-starter in the very beginning phase of democratic decentralization. This is what happened in the late 1980's in South Korea.³⁰⁾ We can thus say that divided government matters to democracy only in a limited sense.

With respect to governance, too, the South Korean case suggests only a limited impact of divided government. Eulogizing or attacking divided government for its positive or negative effect on governance has been a popular theme in partisan as well as academic circles. Critics unhesitatingly blame split partisan control for disrupting and stalemating governance. Proponents, by contrast, promptly attribute policy achievements to the moderate atmosphere that governance under divided government features. Yet, in South Korea, divided partisan rule has not significantly shifted governance to a new course. Governance in a broad sense has experienced neither sustained gridlock nor across-the-board moderation under divided government. Instead, the powerful administrative establishment emerged as further energized to compensate for any possible damage to presidential leadership in the legislative process and continue executive dominance. Divided government in South Korea has reinforced, not changed, the current status in governance. In this sense, we can acknowledge a partial impact of divided government, but can hardly generalize that it crucially transforms governance.

After all, it seems reasonable to regard split partisan rule more as a resulting symptom of some fundamental forces than as a primary factor itself critically defining and driving governance to a particular direction. Divided government certainly conditions the incentives of political actors, but those incentives may more fundamentally mirror institutional settings, socioeconomic situations, cultural and psychological trends, and historical incidents. Of course, depending on the researcher's perspective, any phenomenon can be treated as exogenous or endogenous. But considering that divided government is a phenomenon contingent to the electorate's collective votes, it makes more sense to view divided government as endogenous. Mayhew finds little difference in U.S. major policymaking between unified and divided governments, and attributes the insignificant effect of divided government to other "overcoming" factors such as public moods, external events, cross-party opinion cleavages, and presidential leadership.³¹⁾ Some congressional scholars explain U.S. legislative politics as basically formed by constituency interests, group pressures, and super-majoritarian rules, and do not consider government type—unified vs. divided—as an independent variable.³²⁾ Divided partisan control does not loom large as a key

30) Lim(2002).

31) Mayhew(1991).

32) Brady and Volden(1998); Krehbiel(1998).

exogenous variable even in the theory of conditional party government which places political parties at the center of American politics.³³⁾

The idea that divided government matters only in the sense of re-affirming the current character of governance sends a comparative message, which calls for empirical scrutiny of different political systems. For example, in the American political system, a delicate balance of power between government branches is a primary defining concept of governance. This power balance is likely to be further strengthened under divided government, if the foregoing logic validly applies to the U.S. case.³⁴⁾ Whether the re-affirming of institutional balance promotes centrist moderation or partisan gridlock would depend on what has already been a fundamental nature of American politics. If moderation better depicts the American political system, divided government would further promote the value. If gridlock is deep-rooted as a more defining concept of the American polity, tougher gridlock would follow under divided government. Of course, this reasoning is subject to empirical inquiry. Comparative studies of various cases would help evaluate the empirical validity of this reasoning.

V. Conclusion

Arguments in this paper contradict conventional wisdoms. At least in a semi-democratic system where strong administrative apparatus works as the main engine for governance, divided government does not necessarily lead to either prolonged gridlock or successive centrist moderations in the legislative process. Instead, it recharges administrative arena and further increases the relative importance of executive and administrative policymaking as a tool for governance. Split partisan rule, ironically, reinforces executive domination and hardly matters critically for democratic full

33) John H. Aldrich and David W. Rohde, "The Consequences of Party Organization in the House: The Role of the Majority and Minority Parties in Conditional Party Government," in Jon R. Bond and Richard Fleisher, eds, *Polarized Politics: Congress and the President in a Partisan Era* (Washington, D.C.: CQ Press, 2000).

34) There are historical examples that, at least in a superficial sense, hint at the plausibility of this reasoning. Republican President Nixon hated being constrained by a Democratic Congress: so he used the Commander-in-Chief power in aggressive ways, expanded executive power privileges, and increased the impoundment power beyond what any president had done before. But his institutional imperialism was reined back in by Congress and the courts. The homeostatic executive-versus-Congress balance was eventually restored. The reining in of the once-invincible Gingrich and his fellow neo-conservative Republicans, as illustrated by their failure in impeaching Clinton and in preventing Clinton's major policy achievements, also suggests a strengthening of institutional balance under divided government.

blossoming. Divided government does not fundamentally change the course of the polity, but functions to re-affirm the status quo; in this sense, it matters to governance only to a limited extent.

As much as these arguments are counter-intuitive, they call for a particularly sophisticated empirical substantiation. This paper, unfortunately, falls short of the target. Its empirical analysis has several limitations, most of which stem from the lack of data. For example, it examines only an insufficient number of empirical indicators. It also ignores characteristics unique to each year, by simplistically dividing the post-Democratization era into only two types—divided or unified government. More seriously, this paper treats government type as the single explanatory variable and does not consider confounding effects of all other factors. As a result, though we notice the differences between divided and unified governments, we can hardly assure about a causal effect of divided government.

Future research would have to scrutinize more refined data in order to address these methodological problems. Gathering more data on legislative and administrative policymaking and other aspects of governance in the South Korean political system, however, is a daunting task. Analyzing the data stored in a poorly-organized and unreliable condition would require a great amount of efforts and time. Suffice it here, therefore, to raise rough arguments. They, largely speculative, must be subject to more rigorous empirical investigation and scholarly debate specific to the South Korean setting as well as from a comparative perspective. That way, this paper might eventually prove to be conducive to our theoretical understanding of divided government in particular and democracy and governance in general.

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