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Sung-Soo Han
Unresonable Impeachment Against President Roh Moo Hyun

March 16, 2004

Sung-Soo Han
The impeachment upon President Moo Hyun Roh by the Korean National Assembly on March 12, 2004 is leading to many discussions among the Korean people.

It is very desirable that everyone can freely express his/her own opinion on politics in the democratic society. However, if emotional entanglement is leading to an extreme divergence within public opinion and, thus, brings a great impediment to the development of our country, it is very regrettable.

Seeing it from an analytical point of view, this impeachment is a simple case. Thus, our national resources should not be wasted by dragging time because of such a problem. While fighting for democratization, many people have suffered pain under the earlier military regime. However, making judgments on issues related to democratization was not as simple as in this impeachment case. That is why the Korean people who were longing for democratization have suffered for a long period of time.

“Democratization” is a very abstract term and, thus, not easy to define and explain. From a democratic point of view, no one will deny that we are now enjoying a life that offers more freedom than in the past. However, we are not yet in the stage that allows us to say that we have reached the democratic level of a developed country. It is our obligation to turn Korea into a more developed democratic country.

While servicing for the government, I was given the precious chance to study the US law with taxes paid by our dear Korean people. This is the reason why I am more interested in the impeachment case, and I think it is my duty to return my knowledge to the Korean people, especially at such an important point of time, without receiving anything for this.

The Korean constitution which was influenced by the constitution of the United States has the presidential system which delegates the central power to the president. As such, I think that if one understands the impeachment system of the United States, one will be able to clearly understand the Korea impeachment case as well. Of course, it is also certainly important to have a good understanding of the principles of the Korean Constitution and the Election Law.

Awaiting the important parliamentary election on April 15, I do not doubt that if the Korean people have a precise understanding of the meaning of impeachment and go to the poll with such an understanding, it will bring a turning point where we, together, can change the future of Korea.
As a member of the Korean people and with the conscience of an intellectual, I would like to give a clear explanation on the unreasonableness of the impeachment case to the Korean people based on related laws and facts.

As a professional, it is my job to prepare position papers for my clients. Since I have already published my book titled “Road to Democratic State without Corruption” in both Korean (April 2003) and English (July 2003), I did not face much difficulties in writing this opinion letter.

It is my desire that, with this writing, the Korean people obtain a better understanding of the meaning of impeachment and have the strength to overcome this difficult situation in a reasonable way.

If related issues are not fully understood, it is easy to become entangled with emotions and it eventually will bring no benefit to the people.

We should solve such difficulties in a calm and serene way. I strongly believe that the Korean people can overcome this difficult situation. Thus, I dedicate this book to the Korean people with a prayer for our country’s boundless development.
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I. Progress of Impeachment

On March 12, 2004, the bill of impeachment against President Roh, Moo Hyun passed, which is the first impeachment case in the democratic history of Korea.

The reasons of impeachment are 1) violation of election law (Roh’s speech advocating the Yeoul Rin Uri Party), 2) failure of national administration, and 3) corruption of President Roh’s aides.

Let’s observe the contents of the invitation debate which the Broadcasting Journalist Club hosted and which became the direct cause of impeachment.

- Excerpts from the televised invitation debate dated Feb.24, 2004

“As the people have elected me to be president, I (Roh, Moo Hyun) believe, they will demonstrate whether or not they are willing to support me for 4 years¹ through the upcoming parliamentary election”… “I expect that the people will overwhelmingly support the Yeoul Rin Uri Party during the upcoming parliamentary election.”

“If I could have the people behind the Yeoul Rin Uri Party’s back, I would like to do everything legitimate for the Party”…. “But I think that it is not the president’s role to check the nomination situation of the Party and ascertain which election district is favorable or unfavorable to the Party. Therefore, I have delegated this role to the Party”… “

“I am very interested in the election. If I could have the people behind the Yeoul Rin Uri Party’s back, I would like to do everything legitimate for the Party. Nevertheless, I neither checked the nomination situation nor analyzed which election district is favorable or unfavorable to the Party. Candidates will be determined through the internal election of the Party. I don’t analyze the election status and thus cannot foresee the election result.”

¹ Korean National Assembly member’s tenure is 4 years.
II. Public Survey and its Result

The public opinion poll covering 709 adults taken by the JoongAng Daily on March 12, 2004 shows that 76% disagreed with the impeachment and 21% agreed with it (non-response 3%). Other public opinion polls also do not show big differences.

III. National Election Management Commission’s Opinion and President’s position

The official letter to the President from the National Election Management Commission (NEMC) titled ‘Observance of neutral obligation related to election’ just read “The NEMC determined that the President Roh’s speech did not violate the rule prohibiting preelection campaign. However, as President is a public officer who is obliged to stay neutral in relation to the election, it would be desirable that he should observe the neutral obligation rule.”

The NEMC determined by 6:2\(^2\) that the President violated his political neutrality whereas it concluded by 5:3 that the President’s speech did not come under preelection campaign.

While reading the NEMC’s official letter at the press conference, the President Roh, Moo Hyun said “There was no phrase mentioning ‘warning against me’ in the NEMC official letter. I think that the NEMC merely expressed its opinion in this official letter. Thus, I cannot apologize”.

IV. Related Rules

1) The Act on Election of Public Officials and Prevention of Election Malpractices (hereinafter referred to “the Election Act”)

\(^2\) The NEMC consists of 9 members.
GENERAL PROVISIONS (Article 1 through Article 14)

Article 9 (Responsibilities of Public Officials for Neutrality)
(1) A public official or a person who is required to maintain political neutrality (including an agency and organization) shall not exercise any unreasonable influence over the election or do anything that is likely to have an effect on the election result.

Article 33 (Election Period)
(1) The election period for each election shall be as follows: <Amended by Act No. 6663, Mar. 7, 2002>
  1.23 days for the presidential election;
  2.17 days for the election of the National Assembly member, the local council members and the head of a local government; and
  3.Deleted. <by Act No. 6663, Mar. 7, 2002>
(3) The term "election period" means a period from the day of the application for candidate registration to the election day.

Article 58 (Definition)
(1) For the purpose of this Act, the term "election campaign" means an act for winning an election, or for making another person be or not be elected: Provided, that activities falling under the following subparagraphs shall not be deemed to be an election campaign: <Amended by Act No. 6265, Feb. 16, 2000>

1.A simple statement of opinion or manifestation of an intention on the election;
2.An act in preparation for candidacy and election campaign;
3.A simple statement of opinion on support or opposition to the recommendation of a political party's candidate, or manifestation of an intention thereof; and
4.Ordinary political party activities.

Article 59 (Election Campaign Period)
An election campaign may be allowed during the period from the time when the registration of the candidate concerned is completed, to a day before the election day.
PENAL PROVISIONS (Article 230 through Article 263)

Highest penalty: imprisonment for 3 years or more to 10 years or less

Lowest penalty: a fine of less than KRW 1 million

2) Constitution of the Republic of Korea

Article 8
(4) If the purposes or activities of a political party are contrary to the fundamental democratic order, the Government may bring action against it in the Constitution Court for its dissolution, and the political party shall be dissolved in accordance with the decision of the Constitution Court.

Article 46
(1) Members of the National Assembly shall have the duty to maintain high standards of integrity.
(2) Members of the National Assembly shall give preference to national interests and shall perform their duties in accordance with conscience.
(3) Members of the National Assembly shall not acquire, through abuse of their positions, rights and interests in property or positions, or assist other persons to acquire the same, by means of a contract with the State, public organizations or enterprises, or its disposition.

Article 65
(1) In case the President, the Prime Minister, members of the State Council, heads of Executive Ministries, judges of the Constitutional Court, judges, members of the National Election Management Committee, members of the Board of Audit and Inspection, and other public officials designated by other Acts have violated the Constitution or Acts in the performance of official duties, the National Assembly may pass motions for their impeachment.
(2) A motion for impeachment prescribed in paragraph (1) may be proposed by one third or more of the total members of the National Assembly, and shall require a concurrent vote of a majority of the total members of the National Assembly for passage: Provided, that a motion for the impeachment of the President shall be proposed by a majority of the total members of the National Assembly and approved by two thirds or more of the total members of the National Assembly.

(3) Any person against whom a motion for impeachment has been passed shall be suspended from exercising his power until the impeachment has been adjudicated.

(4) A decision on impeachment shall not extend further than removal from public office: Provided, that it shall not exempt the person impeached from civil or criminal liability.

**Article 84**

The President shall not be charged with a criminal offense during his tenure of office except for insurrection or treason.

3) Constitution of the United States

**Article 1, Section 2:** "The House of Representatives . . . shall have the sole power of impeachment."

**Article 1, Section 3-1:** "The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no person shall be convicted without the concurrence of two thirds of the members present."

**Article 1, Section 3-7:** "Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law."
Article 2, Section 4: The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

V. Explanation of Issues

1) Is There a Violation of the Election Act?

(A) Related rules

Paragraph 1, the article 9 (Responsibilities of Public Officials for Neutrality) of the Act on Election of Public Officials and Prevention of Election Malpractices stipulates “A public official or a person who is required to maintain political neutrality (including an agency and organization) shall not exercise any unreasonable influence over the election or do anything that is likely to have an effect on the election result.”

Now, let’s observe whether 1) President Roh supported the Yeoul Rin Uri Party in the Journalist Club debate in violation of Article 9 of the Election Act and 2) his act violated rules preventing pre-election campaign.

- Accusable Persons -

When only a public official or a person who is required to maintain political neutrality violates Article 9 of the Election Act, she/he can be accused.

As President Roh is a political public officer\(^3\) pursuant to Paragraph 3-1, Article 2 of the Korean Public Official Law, once he violates Article 9 of the Election Act, he can be accused.

- Illegal Act -

Where a person who can be accused exercises any unreasonable influence over the election or does anything that is likely to have an effect on the election result, an illegal action lies.

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\(^3\) A public official who takes office by election or is appointed by the National Assembly
(B) National Election Management Commission (NEMC)

- Contents of the NEMC’s Official Letter -

The NEMC, without any wording concerning the violation of the Election Act in its official letter, notified President Roh that “The NEMC determined that the President Roh’s speech did not violate the rule prohibiting preelection campaign. However, as President is a public officer who is obliged to stay neutral in relation to the election, it would be desirable that he should observe the neutral obligation rule.”

That is, the NEMC didn’t mention anything as to whether President Roh exercised any unreasonable influence over the election or did anything that is likely to have an effect on the election result.

Accordingly, as the NEMC which is responsible for constructing the Election Act didn’t indicate that President violated the Election Act, it would be difficult to allege that President Roh violated the Election Act.

- Clear Notification Obligation of the NEMC -

National Agencies should execute their administration duties (including the construction of law) through an official letter. Thus, as the NEMC which is responsible for construction of related rules did not indicate the violation of the Election Act in its official letter, it cannot be said that President Roh violated the Election Act.

Article 14-2 (Suspension of and Warning against Violations of Election Laws) of the National Election Management Committee Act stipulates that “Members or staff of each election commission, upon discovering a violation of election laws in the course of their duties, shall halt the violation, issue a warning or correction order, and may request an investigation to the competent investigation authorities or bring a formal charge if the violation is deemed significantly detrimental to the impartiality of election or an order of suspension, warning, or correction is not complied with.”
If President Roh violated the Election Act, the NEMC should have presented the related facts and legal grounds and explained how President violated the Election Act. However, since, without any legal ground, the NEMC just notified that “As the President is a public officer who is obliged to stay neutral in relation to the election, it would be desirable that he should observe the neutral obligation rule”, this official letter cannot be treated as indicating illegal action.

What is more, the NEMC concluded that President’s speech did not come under the preelection campaign. Thus, if the President didn’t perform a preelection campaign which is considered an illegal action as set forth below, an illegal action does not lie.

(C) What is Legal or Illegal?

- Was There Any Electioneering Action? -

Paragraph 1, Article 9 (Responsibilities of Public Officials for Neutrality) of the Election Act stipulates “A public official or a person who is required to maintain political neutrality (including an agency and organization) shall not exercise any unreasonable influence over the election or do anything that is likely to have an effect on the election result.”

However, as Article 9 is inserted in the general provisions of the Election Act and consists of the abstract terms such as “exercise any unreasonable influence” and “have an effect on the election result”, it can be easily understood that the Article 9 is merely declarative.

Accordingly, it is necessary to observe whether there exist other provisions which can complement the general provisions having these abstract meaning. If there are other provisions which can complement the Article 9, whether there was an illegal campaign action should be judged by these provisions.

Provisions of the Election Act which complement the general provisions are as follows:

Paragraph 1, Article 86 (Public Officials Prohibited from Acts Having Effects on Election) of the Election Act provides as follows:
A public official (excluding a National Assembly member, his assistant, chief secretary, and secretary, and a local council member), …shall not commit an act as provided in any of the following subparagraphs: <Amended by Act No. 5412, Nov. 14, 1997; Act No. 6265, Feb. 16, 2000; Act No. 6663, Mar. 7, 2002>

1. An act of advertising the achievements of a specific political party or a candidate (including a person who wishes to be a candidate; hereafter the same shall also apply in this Article), regardless of the pretext of education or whatever;

2. An act of participating in the planning of an election campaign or in the implementation of such planning;

3. An act of surveying or publishing a support rate of the electors for a political party or candidate;

4. An act of offering or promising to offer money, goods, or interests other than those as prescribed by the Acts and subordinate statutes to the personnel under his supervision or to the electors during the election campaign period, notwithstanding the pretext: Provided, That the ceremonies of coming-of-age, marriage, funeral or ancestor memorial, or other acts by courtesy or on duty as prescribed by the National Election Management Commission Regulations shall be excepted;

5. An act of holding a ground-breaking ceremony, during the election campaign period, for a construction work which is not to immediately start among the projects to be executed out of the budget of the State or local governments;

6. An act of taking a business trip for something other than a normal business purpose during the election campaign period; and

7. An act of visiting any institution or facilities related to his duties, on leave, during an election campaign period.

This Article enumerates public officials’ acts which affect the election in order to complement the Article 9 whose meaning is abstract. Thus, if a public official violates this Article, he/she can be punished.
The contents of speech by President Roh doesn’t come under the subparagraphs above, and it is supported by the fact that the NEMC judged that President Roh didn’t perform the pre-election campaign. If President Roh had violated Article 86 of the Election Act, the NEMC should have notified him of it.

The NEMC, in its official letter, just notified “As President is a public officer who has neutral obligation in relation to the election, it would be desirable that he should observe neutral obligation”. Thus, it is thought that the NEMC could not help sending such a notice to President Roh without indicating illegality since it couldn’t get the evidence that he violated the Election Act.

However, the NEMC says “We actually judged that President’s speech is illegal. But we used such a roundabout expression in our official letter to treat President with respect.” It sounds preposterous.

Article 114 of the Constitution provides that the National Election Management Commission shall be established for the purpose of fair management of elections and national referenda, and dealing with administrative affairs concerning political parties, and also stipulates that the members of the Commission shall not join political parties, nor shall they participate in political activities for fair election management.

The NEMC, which is an independent constitutional agency, doesn’t have to see how the wind blows in the course of executing its administration. Any provisions of the Constitution and other Acts don’t request the NEMC to treat the president with respect.

In a democratic state, all people are equal. Accordingly, it is natural that even the president should be punished pursuant to the related laws once he/she violates them.

Was There the Violation of Articles 60 and 255 of the Election Act?

Someone says that President Roh’s speech comes under Articles 60(Persons who cannot perform Election Campaign) and 255(Unlawful Election Campaign).

President Roh should not perform election campaign since he comes under Article 60 of the Election Act. However, as set forth above, President Roh’s speech does not come
under pre-election and election campaigns. Thus, Article 255 cannot apply since there is no illegal act by President Roh. As the NEMC has already officially acknowledged it, it is beyond controversy.

The article 255 (Unlawful Election Campaign)-(1)

Any person who falls under any of the following subparagraphs shall be punished by imprisonment for not more than three years or a fine not exceeding 6 million won

1. A person who carries out or makes another person carry out an election campaign in contravention of the provisions of Article 60 (1), or who becomes or makes another person become an election campaign manager in contravention of the provisions of paragraph (2) of the same Article or Article 205 (4);

- Is it possible to Penalize? -

Chapter 16 of the Election Act (Penalty) stipulates penalty provisions concerning its violation. Depending upon types of illegal acts, punishment can vary from "imprisonment for 3 years or more to 10 years or less" to a fine of KRW 1 million or less.

However, as set forth earlier, Article 9 is a declaratory clause which is inserted in the General Provisions (Chapter 1). Chapter 16 does not define any penalty in relation to the violation of Article 9 of the Election Act. Thus, although there is a violation of Article 9, no penalty can be imposed.

To be more precise, it would be meaningless to talk about the violation of Article 9 in terms of penalty. Thus, reviewing Article 86 of the Election Act is necessary in order to ascertain the illegality of election campaign.

2) Reason for Impeachment

(A) Constitution of Republic of Korea

Article 65
(1) In case the President, the Prime Minister, members of the State Council, heads of Executive Ministries, Justices of the Constitutional Court, judges, members of the
National Election Commission, the Chairman and members of the Board of Audit and Inspection, and other public officials designated by Act have violated the Constitution or other Acts in the performance of the official duties, the National Assembly may pass motions for their impeachment.

(2) A motion for impeachment prescribed in paragraph (1) may be proposed by one third or more of the total members of the National Assembly, and shall require a concurrence of a majority of the total members of the National Assembly for passage: Provided, That a motion for the impeachment of the President shall be proposed by a majority of the total members of the National Assembly and approved by two thirds or more of the total members of the National Assembly.

(3) Any person against whom a motion for impeachment has been passed shall be suspended from exercising his power until the impeachment has been adjudicated.

(4) A decision on impeachment shall not extend further than removal from public office: Provided, That it shall not exempt the person impeached from civil or criminal liability.

Article 84
The President shall not be charged with a criminal offense during his/her tenure of office except for insurrection or treason.

(B) Constitution of the United States

Article 1

Section 2;

The House of Representatives shall have the sole Power of Impeachment.

Section 3;

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.
Section 3;

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Article 2

Section 4;

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

(C) Comparision of Korean and American Constitutions

The Korean Constitution mostly follows the American Constitution of traditional presidential system. Thus, the impeachment system of the Korean Constitution is similar to that of American.

However, the Korean Constitution provides that the president shall not be charged with a criminal offense during his tenure of office except for insurrection or treason. This is a big difference between Korean and American Constitutions.

According to the Korean Constitution, in case the president has violated the Constitution or other Acts in the performance of his/her official duties, the National Assembly may pass motions for their impeachment; meanwhile the president shall not be charged with a criminal offense during his tenure of office except for insurrection or treason.

It shows that the Korean Constitution has a stronger presidential system than the American one, which is based on the national consensus.
Therefore, considering the purport of establishment of the Constitution, as long as the president is not charged with insurrection or treason during his/her tenure of office and didn’t trample upon the Constitution, there should be no impeachment against the president which would result in the paralysis of national administration.

**(D) The U.S. impeachment cases**

**- Impeachment of President Andrew Johnson -**

Andrew Johnson, President of the United States, became the first president in U.S. history who was charged with impeachment in the year of 1986.

The grounds for the impeachment are; (1) the President suspended Secretary of War Edwin M. Stanton from office without consent of the Senate, and, as a result, his action violated the Tenure of Office Act of 1867; and (2) he publicly attacked the Congress by opposing their Reconstruction program.

Since Edwin M. Stanton, Secretary of War at that time, was playing an important role in the Reconstruction program, it became a critical issue when the President suspended him without consent of the Senate during the President’s terms of office. However, the Senate failed to impeach the President Andrew Johnson by one vote short of the 2/3 majority needed for the impeachment.

The above case was initiated by the President’s unlawful action which suspended Secretary of War without the consent of the Senate.

As the President’s unlawful action trampled upon the checking fuctions of the Congress, it is thought that the Congress could not overlook the President’s unlawful action in order to protect a constitutional system of ‘checks and balances’.

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\(^4\) Article 2, Section 2: ...; and he(President) shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court ... , and which shall be established by law


The case of the President Andrew Johnson is completely distinguished from that of the current President Roh, Moo Hyun’s case as follows:

The President Andrew Johnson clearly violated related laws. However, as set forth above, the President Roh, Moo-hyun didn’t perform any unlawful action which is against the Korean Election Act.

In the Andrew Johnson case, the charge against the President was made due to Andrew Johnson’s unlawful action which attempted to destroy the constitutional system of separating three powers (checks and balances) and disregarded the Congress’ inherent rights protected by the Constitution. However, the President Roh didn’t perform such kind of unlawful action.

Accordingly, it is not proper to charge the President Roh with impeachment without a careful consideration and analysis on the historical background of presidential system and differences between the Korean and the U.S. Constitutions.

- **Impeachment of President Richard Nixon**

A break-in occurred on the night of June 17, 1972. Five burglars broke in the Democratic National Committee offices inside the Watergate Office complex in Washington to plant bugs (tiny audio transmitters). They were arrested at the scene by police. Later 2 other accomplices were found guilty in January, 1973.

These 7 burglars had some sorts of connection with the Committee to Re-elect President Nixon. And there were appealing doubts that a conspiracy had been linked with Nixon’s top administraion officials during the Watergate burglar trial.

James McCord, who was found guilty, sent a letter to U.S. District Judge John J. Sirica, who presided over the trials of burglars, revealing the huge cover-up plot on Watergate break-in. Because of this letter, the Watergate burglar incidents marked the beginning of huge and long trail of political scandal.

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In October of 1973, Attorney General Elliot Richardson appointed Watergate Special Prosecutor Archibald Cox to investigate allegations of political spying, unlawful wiretapping of citizen working for the Administration, political contribution to the Republican Party.

Nixon aide revealed that there existed tapes recored Nixon’s conversations in the Oval Office since 1971. Consequently, Archibald Cox subpoenaed Nixon in order to get the tapes but Nixon refused it.

President Nixon, then, ordered Attorney General Elliot Richardson to fire Cox, but Attorney General Elliot Richardson and Deputy Attorney General William Ruckelshaus refused Nixon’s order and instead they resigned from office.

Consequently, Solicitor General Robert Bork carried out the order to fire Cox. And the event became known as ‘Saturday Night Massacre’.

Nixon’s such action lead the press, the officials and people of the United States to demand for impeachment of the President. Accordingly, the House of Representatives endowed the House Judiciary Committee with authority of investigation for impeachment.

Present Richard Nixon did not admit that he was aware of attempt to cover-up of Watergate break-in and Federal Bureau of Investigation (‘FBI’) hindered the investigation on Watergate break-in until he resigned from office.

As President Richard Nixon resigned in August 9, 1974, the impeachment trial by the Senate was not taken place.

Since the above case clearly falls under high crimes and misdemeanors, it is meaningless to compare Nixon’s case with President Roh’s case. Thus, I skip detailed explanations on this case.
Impeachment of President William Jefferson Clinton

In 1994, a former Arkansas state employee, Palula Corbin Jones filed a civil lawsuit against President Clinton in her allegation that the President, when he serviced as a governor of Arkansas in 1991, sexually harassed and assaulted her.

Jones’s attorney questioned the women who are believed to have had a sexual relationship with President Clinton. In January 17, 1998, President Clinton became the first U.S. president in history who was given a hearing as a defendant in a civil suit.

President Clinton denied having sexual relationship with Monica S. Lewinsky at his deposition in the Jones lawsuit, and Lewinsky also denied the sexual relationship with him.

Whitewater independent Counsel Kenneth W. Starr was provided with a tape from Linda R. Tripp, who was a college of her in Pentagon. The tape contained the conversation with Lewinsky about her affair with the president.

Clinton publickly denied the allegation which President Clinton attempted to cover-up the relationship with Lewinsky.

In March of 1998, Jones’s attorneys released a document that President Clinton admitted he had a sexual relationship with Gennifer Flowers in the 1980s.


In July of 1998, lawyers for Lewinsky and Starr worked out a full immunity agreement from false testimony.

In August 17, 1998, Clinton testified before a grand jury. And he acknowledged he had “inappropriate intimate contact” with Lewinsky, but insisted his January deposition in the Jones suit had been accurate.

In September of 1998, Starr submitted 445 pages long report to the House of Representatives citing four possible grounds for impeachment including false testimony to a federal grand jury, obstruction of justice, buy off witness, abuse of power and etc.

In December 19, 1998, President Clinton was charged with impeachment in respect of false testimony to a federal grand jury and obstructing justice.

However, in February, 12, 1999, the Senate rejected the first charge of false testimony to a federal grand jury by 10 Republicans and all 45 Democrats vote of “not guilty”, and on the charge of obstruction of justice, the Senate was split 50-50.

a) Trial Memorandum of President William Jefferson Clinton by the Senate

The gravity of what is at stake -- the democratic choice of the American people -- and the solemnity of the proceedings dictate that a decision to remove the President from office should follow only from the most serious of circumstances and should be done in conformity with Constitutional standards and in the interest of the Nation and its people…

…Should the will of the people be overruled and the President of the United States be removed from office because he used the phrase “certain occasions” to describe eleven events over some 500 days?...


12 The ‘eleven events’ means that Mr. Clinton had the improper relationship with Ms. Lewinsky for eleven times.
…There is the charge that the President unlawfully obstructed justice by allegedly trying to find a job for Monica Lewinsky in exchange for her silence about their relationship. This charge is made despite the fact that no one involved in the effort to find work for Ms. Lewinsky -- including Ms. Lewinsky herself -- testifies that there was any connection between the job search and the affidavit.

…On October 28, 1998, more than 400 historians issued a joint statement warning that because impeachment had traditionally been reserved for high crimes and misdemeanors in the exercise of executive power, impeachment of the President based on the facts alleged in the OIC Referral would set a dangerous precedent…

…The syntax of the Constitutional standard “Treason, Bribery or other high Crimes and Misdemeanors” (emphasis added) strongly suggests, by the interpretive principle noscitur a sociis, that, to be impeachable offenses, high crimes and misdemeanors must be of the seriousness of “Treason” and “Bribery.”…

…Ours is a Constitution of separated powers. In that Constitution, the President does not serve at the will of Congress, but as the directly elected, solitary head of the Executive Branch. The Constitution reflects a judgment that a strong Executive, executing the law independently of legislative will, is a necessary protection for a free people…

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13 “Treason, Bribery or other high Crimes and Misdemeanors”: Because the sentence is conjuncted with “or other”, literally, there is a possibility that people may misunderstand “1) Treason, Bribery” and “2) high Crimes and Misdemeanors” refer to two separate unlawful actions. However, regardless of the above fact, it says that the above sentence should be interpreted in a way that “1) Treason, Bribery” and “2) high Crimes and Misdemeanors” are closely related.

14 It is known from its associates. The meaning of a word is or may be known from the accompanying words. Under the doctrine of “noscitur a sociis”, the meaning of questionable or doubtful words or phrases in a statute may be ascertained by reference to the meaning of other words or phrases associated with it. Wong Kam Wo v. Dulles, C.A.Hawaii, 236 F. 2d 622, 626.
…It was not the intention of the Framers that the President should be subject to the will of the dominant legislative party. Our system of government does not permit Congress to unseat the President merely because it disagrees with his behavior or his policies…

…Removal of the President on these grounds would defy the constitutional presumption that the removal power rests with the people in elections, and it would do incalculable damage to the institution of the Presidency…

…The Framers made the President the sole nationally elected public official (together with the Vice-President), responsible to all the people…

…The Framers “intended that a president be removable from office for the commission of great offenses against the Constitution”. Impeachment is reserved for the most serious public misconduct, those aggravated abuses of executive power that, given the President’s four-year term, might otherwise go unchecked…

CONCLUSION

As the Senate considers these Articles of Impeachment and listens to the arguments, individual Senators are standing in the place of the Framers of the Constitution, who prayed that the power of impeachment and removal of a President would be invoked only in the gravest of circumstances, when the stability of our system of government hung in the balance --to protect the Republic itself from efforts to subvert our Constitutional system.

The Senate has an obligation to turn away an unwise and unwarranted misuse of the awesome power of impeachment. If the Senate removes this President for a wrongful relationship he hoped to keep private, for what will the House ask the Senate to remove the next President, and the next?  

Our Framers wisely gave us a constitutional system of checks and balances, with three co-equal branches.

Removing this President on these facts would substantially alter the delicate constitutional balance, and move us closer to a quasiparliamentary system, in which the
President is elected to office by the choice of the people, but continues in office only at the pleasure of Congress.

In weighing the evidence and assessing the facts, we ask that Senators consider not only the intent of the Framers but also the will and interests of the people.

It is the citizens of these United States who will be affected by and stand in judgment of this process. It is not simply the President -- but the vote the American people rendered in schools, church halls and other civic centers all across the land twenty-six months ago -- that is hanging in the balance.

Respectfully submitted,

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January 13, 1999

3) Can the Failure of National Administration and the Corruption of President’s aide be the reason of impeachment?

(?) The failure of National Administration

Paragraph 1, Article 65 of the Constitution provides “In case the President has violated the Constitution or other Acts in the performance of the official duties, the National Assembly may pass motions for their impeachment.” Accordingly, the President should be impeached only in case he/she violated the Constitution or other Acts.
The Constitution has lots of abstract provisions unlike subordinate laws. However, even the abstract Constitution has no provision which mentions about the failure of national administration of which opposition political parties accuse President Roh. Then, do subordinate laws have provisions which make it possible to charge the President with the failure of national administration? No, they don’t.

Nevertheless, opposition political parties assert that it is possible to impeach the President with the failure of national administration provided in neither the Constitution nor subordinate laws. If we should accept their assertion, the Korean people would be busy with presidential elections every year.

What is more, whenever the Korean economy is down under the effect of world economy, opposition political parties will assert that they must impeach the President. Also, whenever there take place diplomatic problems due to circumstantial changes including neighboring states, they will assert so. Accordingly, from a legal perspective, it is meaningless to discuss opposition parties’ assertion.

(B) Corruption of President’s aides

As set forth above, the violation of the Constitution and other Acts is required for the impeachment of the president. That is, an accusable person is the president and the illegal act is a violation of the Constitution or other Acts.

That is to say, in order to satisfy the conditions of impeachment, not the president’s aides but the president himself is required to be an accusable person. All investigation results including the special prosecutor’s examination to date, however, indicate that the President’s illegal acts have not been found.

Then, do subordinate laws have any provision which stipulates that the President should be responsible for his/her aids? No, they don’t. Thus, the opposition parties’ assertion is groundless as in case of the failure of national administration.

(C) The obligation of parliament members

Article 46 of the Constitution provides the duty of members of the National Assembly as follows:
(1) Members of the National Assembly shall have the duty to maintain high standards of integrity.

(2) Members of the National Assembly shall give preference to national interests and shall perform their duties according to the dictates of their conscience.

(2) Any member of the National Assembly shall neither acquire rights and benefits in property or other positions, nor assist other persons to acquire the same things, by means of contracts with or dispositions by the State, public organizations or industries in abusive exercise of his/her status as a member of the National Assembly.

Our Constitution clearly provides only the obligation of members of the National Assembly. This is because they are directly elected by the people so that they should take greater responsibility than other public officials.

Moreover, as the members have the legislative power which becomes the basis of national administration, if they violate the duty to maintain high standards of integrity and acquire rights and benefits in property in abusive exercise of their status as a member of the National Assembly, it will fatally impair the national development.

(D) Dissolution of political party

The recent investigation results of the presidential election campaign fund show that the illegally raised fund amounts to an astronomical number.

Paragraph 4, Article 8 of the Constitution states “If the purposes or activities of a political party are contrary to the democratic basic order, the Government may bring an action for its dissolution before the Constitutional Court, and the political party may be dissolved by decision of the Constitutional Court.”

Provided below is the preamble of Constitution.

We, the people of Korea, proud of a resplendent history and traditions dating from time immemorial... To destroy all social vices and injustice, and To afford equal opportunities to every person and provide for the fullest development of individual capabilities in all fields, including political, economic, social and cultural life by further strengthening the free and democratic basic order conducive to private initiative and
public harmony, and To help each person discharge those duties and responsibilities concomitant to freedoms and rights, and To elevate the quality of life for all citizens and contribute to lasting world peace and the common prosperity of mankind and thereby to ensure security, liberty and happiness for ourselves and our posterity forever, Do hereby amend, through national referendum following a resolution by the National Assembly, the Constitution, ordained and established on the Twelfth Day of July anno Domini Nineteen hundred and forty-eight, and amended eight times subsequently.

Paragraph 1, Article 7 of the Constitution provides that public officials shall be servants of the people and shall be responsible to the people, and Paragraph 1, Article 34 provides that all citizens shall be entitled to a life worthy of human being. Paragraph 2 Article 34 provides that the State shall have the duty to endeavor to promote social security and welfare, and paragraph 6 Article 34 provides that the State shall endeavor to prevent disasters and to protect citizens from harm therefrom.

The investigation results of presidential election campaign fund show that political parties raised illegal funds amounting to an astronomical number in abusive exercise of their members' status resulting in disrupting democratic basis order. As explained below, as a result of such illegal political activities, our country faced the foreign currency crisis and numberless people are still suffering a lot of pain.

If the government cannot execute necessary social welfare policies for the people due to taxes evaded through such illegal activities and as a result the fundamental rights of the people are being infringed, the purposes or activities of such political parties are contrary to the democratic basis order. Therefore, the government should have brought an action for their dissolution before the Constitutional Court according to paragraph 4, Article 8 of the Constitution.

However, being an instance of evil-doer’s audacity, political parties which should have been dissolved conspired to impeach President Roh ignoring the people’s opinion. This is ridiculous.

4) Cause of Failure of National Administration

Although that the failure of national administration cannot be a reason for impeachment has been already set forth above, it is thought that additional explanations will be
necessary to avoid any argument.

The people will agree that one of the principal reasons for the foreign currency crisis and the resulting suffering of many people is corruption.

Opposition political parties assert that the President Roh’s wrong policy resulted in the failure of national administration. However, it is common sense that no underdeveloped or developing state can make its poor economic infrastructure strong and healthy in just one or two years.

The earlier government had financial institutions overissue credit cards in order to improve the domestic economic situation. The government enjoyed a short-term effect through this economic policy. But, numerous people are now suffering great pains due to this wrong short-term economic policy and it became extremely difficult to get out of this difficult situation. Thus, the importance of a long-term economic policy cannot be emphasized too much.

If political parties continue to use corrupted funds and if enterprises prepare such corrupted funds through an illegal accounting practice, it is practically impossible for an enterprise to become transparent and healthy.

If that is the case, fraudulent accounting cases such as Dae-Woo and SK will continue to take place and it will be impossible for Korea to become a developed country.

The present government (Participation Government) gave up the authoritative administration in order to cut off the ring of corruption. Since the establishment of the democratic government, no government has ever done this before. The gradual disappearance of authoritative administration is resulting in eliminating the ring of corruption. This is, in fact, a desirable phenomenon.

Even though we are now suffering pains, we should endure the pain to build up a healthy economic infrastructure.

If we continue to make such an effort, I think that one day we will become proud of being the people of Korea.
I have already published the book titled “Road to Democratic State without Corruption” in April, 2004 which explains the relationship between corruption and national development. I introduce its excerpts for your better understanding.

**Vice of Government-Business Collusion**

We are troubled with the vice of irregularities and corruption. Nevertheless most of the people do not provide satisfactory explanations as to why the government-business collusion is a chronic disease in our society.

While I was discussing various topics with Korean students who were studying in the United States, I questioned a student regarding his thought on the vice of irregularities and corruption.

He was studying in a MBA program but had difficulty answering my question. Since Korea was not under the foreign currency crisis at that time, it was thought that the result would be the same with the other students.

People who do not seriously give consideration to and study these chronic problems generally cannot clearly explain what the term “government-business collusion” means. If I ask the same question now, more persons might be able to plausibly answer because the related topics have often been, even though abstract, discussed through the mass-communication media after occurrence of the foreign currency crisis.

Ordinary people do not precisely understand how the government-business collusion affects them even though most people have vague idea on the negative effect the collusion of politicians, etc. and businessmen has on the development of a nation. But after the foreign currency crisis, people are beginning to slowly recognize the vice of government-business collusion.

For example, “Big enterprises have given politicians, etc. a bribe which was created from their business funds for enjoying illegal benefits. The illegal use of the business funds led to bad management, eventually resulting in an insolvent condition. Therefore, government-business collusion has a vile effect on the national economy and deters healthy social development.” Perhaps, this would be the level of knowledge the ordinary people have regarding the vice of government-business collusion since the foreign currency crisis in 1997.
We need to precisely recognize this social vice that deters national development and feel in our bones that this chronic vice must be rid of as soon as possible.

As set forth earlier, a nation is largely run through the tax revenue. Generally once a budget is determined, taxes are collected on the basis of the budget. Therefore, at the end of year, we sometimes run into newspaper articles which read “How much taxes does a single person have to pay?” Upon reading such article, we feel rather bitter about the heavier tax burden which increases every year. Once the scale of governmental expenditure is determined, necessary taxes should be collected without fail.

As a simple example, assume that the total expenditure of the government is KRW 10 million and there are total 100 taxpayers. Should all taxpayers pay the same tax, one taxpayer will have to pay KRW 100,000. If 10 persons evade taxes and the government fails to collect tax revenue of KRW 1 million, the remaining 90 persons have to bear KRW 1 million of additional tax burden. That is, 90 persons must bear more than KRW 110,000 of taxes and therefore pay additional taxes of over KRW 10,000; that is, more than 10%.

Before we were under the IMF control in December, 1997, several big enterprises filed for bankruptcy. Let’s look at the well-known Han Bo case. At the time of the Han-Bo’s bankruptcy, its liabilities was KRW 4.7 trillion. The press said that KRW 1.3 trillion of that amount could not be clearly tracked and that most of the KRW 1.3 trillion was used as a bribe or misappropriated.

Let’s discuss how this fact has an effect on our economy. How much taxes can the government collect on KRW 1.3 trillion used as a bribe or misappropriated? For sake of simplicity, only both corporate income tax and individual income tax will be computed. If other taxes are included, the amount will be greater.

A manager who misappropriated enterprise funds will have KRW 1.3 trillion of income pursuant to the domestic tax law at the time of misappropriating funds.

The enterprise can deduct KRW 1.3 trillion as an expense at the time of depreciation since it overestimated its facilities expenses by creating false expenses. That is, if
KRW 4.7 trillion of the Han Bo Inc.’s liabilities is used as facilities funds. Han Bo may recover KRW 4.7 trillion as an expense through depreciation.

An enterprise normally invests its funds for the procurement of facilities. Since value of facilities decreases when those facilities are used for production, an enterprise recovers its invested funds by recording expense as depreciation in order to match value decrease of facilities with profit.

Since the above KRW 1.3 trillion was misappropriated or used as a bribe instead of being used as facilities funds, actual facilities funds is KRW 3.4 trillion (4.7 trillion – 1.3 trillion). However, Han Bo Inc. would depreciate KRW 4.7 trillion other than KRW 3.4 trillion as expense and file a tax return to the government after deducting KRW 1.3 trillion of false expense from profit.

If the government denies this false expense and properly assesses tax payable, KRW 1.3 trillion that the entrepreneur misappropriated constitutes his/her income. Where he/she is subject to individual income tax rate of 40%, he/she has to pay KRW 0.52 trillion (1.3 trillion x 40%) as income tax. In addition, as the company falsely increased the facilities funds, it has to pay KRW 0.39 trillion (1.3 trillion x 30%) of corporate income tax assuming that the corporate tax rate is 30% because the government will not acknowledge KRW 1.3 trillion of false expense as deductible expense.

If the tax evasion is not detected, the manager and the company would evade KRW 0.91 trillion of tax and the tax that they evaded must be paid by other honest workers and entrepreneurs, etc.

For a long time, most of enterprises in Korea have colluded with politicians and government officials and customarily committed this kind of corruption. Entrepreneurs, whenever necessary, have provided politicians and government officials, etc. with a bribe under the pretext of “cake money”. If we impose a tax on such a bribe when it becomes income of another person, the tax amount would become astronomical.

If an enterprise aggressively offers a bribe, it will try to be rewarded a gain several times higher than the bribe and its abnormal action damages the market that should be operating normally. Under such circumstance, persons who commit such illegal actions succeed but persons who normally run business will not be able to survive. If a nation
becomes full of these corrupt economic entities, national efficiency and competitiveness will fall behind foreign nations and the possibility that economic crisis will take place increases.

Although the government must collect taxes evaded where an enterprise becomes bankrupt, it often cannot justly exercise its taxing rights since the enterprise will be unable to pay taxes. In that case, other honest taxpayers will bear the evaded taxes.

It is said that the liability of Han Bo Inc. was KRW 4.7 trillion. The banks which were unable to recover their loan from Han Bo treated the bad debt as loss and deducted the expense from their profit. For example, let’s assume that only KRW 2.7 trillion of the funds loaned to Han Bo can be recovered. In this case, KRW 2 trillion out of KRW 4.7 trillion becomes a bad debt. When KRW 2 trillion is treated as expense of banks, how much is the related tax and who must bear the burden?

Banks which cannot recover the loan due to its bad debt nature will treat the loan as expense. As a result, the government will not be able to collect KRW 600 billion [2 trillion x 30% (corporate tax rate)] of taxes that would have been collected had there not been any bad debt. Instead, honest taxpayers will pay the taxes which the banks cannot pay.

What is more, with bankruptcy of Han Bo, numerous medium and small enterprises which engaged in transactions with Han Bo also went bankrupt. Thus, the source of taxes was exhausted and the government suffered an enormous revenue loss.

In order to run a nation, the government should effectively secure tax revenue. Should the government decide to pay no heed to such illegal activities, national revenue will decrease and the burden of honest taxpayers will further increase.

In addition to tax revenue problem, such illegal activities have an enormous effect on the national economy (e.g. foreign currency crisis, etc).

The problem does not end here. Along with the bankruptcy of enterprises, many employees will lose their jobs and countless number of persons will choose to commit suicide because of the unbearable circumstances. This “social expense” is too enormous to be converted into money. Therefore, all people should understand that the
vice of government-business collusion is the biggest impediment to the development of our society. If both the government and the people do not endeavor to eradicate this social vice, we cannot expect our nation to develop any further.

**High Expense and Low Efficiency**

The vice of government-business collusion causes our enterprises to fall behind other nations in the international competition and induces inequity among taxpayers. For example, assume that a corporation secures a construction project (e.g., bridge) which amounts to KRW 1 trillion from the government. The estimated profit of the corporation is KRW 0.1 trillion and normal construction cost is KRW 0.9 trillion in the case where there is no bribery to politicians and government officials. If there is no bribe, the corporation would realize KRW 0.1 trillion of profit through normal construction.

Therefore, the corporation would pay KRW 30 billion (0.1 trillion x 30%) as the corporate tax and the remaining KRW 70 billion would be used for the business activities of the corporation or distributed as dividend. In the case of dividend, if the dividend tax rate is 15%, KRW 10.5 billion (70 billion x 15%) will be paid to the government as income tax. In the end, the government can get a strong bridge by the normal construction and collect KRW 40.5 billion of taxes from the corporation.

What if the corporation provides politicians and government officials with a bribe that amounts to 10% of the total construction amount?

Since the basic purpose of an enterprise lies in the pursuit of profit, it will seek to achieve the originally targeted profit of KRW 0.1 trillion even though it should provide KRW 0.1 trillion of bribe which is 10% of KRW 1 trillion.

However, since the construction costing KRW 0.9 trillion must be performed at KRW 0.9 trillion, there will be no profit and therefore the enterprise will attempt to generate the profit by decreasing the construction cost. In other words, the enterprise will seek its profit goal of KRW 0.1 trillion by spending KRW 0.8 trillion of construction expense instead of KRW 0.9 trillion. As a result, the following problems take place.

1) KRW 0.1 trillion of bribe will be treated as an unearned income, circumventing government’s tax system and promotes over-consumption.
2) The government is left with a badly built bridge costing KRW 0.8 trillion instead of a
well-constructed bridge which could have been built with a cost of KRW 0.9 trillion.

3) The collapse of badly built bridge will accompany high repairing expense, traffic congestion and tax squandering. Moreover, it causes an enormous impediment to industrial activities that can in no way be converted into money.

4) If the enterprise incurs KRW 0.1 trillion of repairing expense in the future to repair the badly constructed bridge, it can deduct the KRW 0.1 trillion as an expense. The government will not be able to collect any tax from that enterprise since the government has to acknowledge additional KRW 0.1 trillion of repairing cost as deductible expense.

5) The enterprise must also bear additional expenses and will suffer from high expense and low efficiency.

The following table depicts the above situation in a simplified manner.

<table>
<thead>
<tr>
<th></th>
<th>Normal Construction</th>
<th>Abnormal Construction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receipts</td>
<td>1 trillion</td>
<td>0.9 trillion</td>
</tr>
<tr>
<td>Expense</td>
<td>0.9 trillion</td>
<td>0.8 trillion</td>
</tr>
<tr>
<td>Net Profit</td>
<td>0.1 trillion</td>
<td>0.1 trillion</td>
</tr>
<tr>
<td>Corporate Tax</td>
<td>30 billion</td>
<td>30 billion</td>
</tr>
<tr>
<td>Income Tax (Dividend)</td>
<td>10.5 billion</td>
<td>10.5 billion</td>
</tr>
<tr>
<td>Outcome</td>
<td>well-constructed bridge</td>
<td>weakly constructed bridge</td>
</tr>
<tr>
<td>Problems</td>
<td>no</td>
<td>Unearned income : 0.1 trillion</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Repairing expense : 0.1 trillion</td>
</tr>
<tr>
<td></td>
<td></td>
<td>tax refund effect : 40.5 billion</td>
</tr>
</tbody>
</table>

※ In the case of bad construction, tax payable is zero
Equity of Taxation and Bribery

The term “equity of taxation” is very often used by the government. However, the question we must ask is, “How many tax officials can truly understand what the equity of taxation really stands for and provide us with the clear answer?” Tax specialists say that individuals in the same economic situation are liable to pay the same tax. This is understood in the same context as the equity of law.

To state that a single person is under the same situation as the other person implies that the former person has the same income as the latter person. Irrespective of whether they are a president or laborer, if they have the same income, they are liable to pay the same tax. This is equity. The equity of taxation can be achieved when taxable income can be clearly disclosed and when there is no irregularity in the tax administration.

As explained earlier, once an entity evades the taxation net by a bribery, the equity of taxation collapses. Salaried men who lack the chance to receive a bribe must pay taxes corresponding to the income they earn regardless of their intent. Thus, in reality, salaried men bear larger tax burden than others who receive a bribe and avoid the tax authority.

What about professionals and individual proprietors who defraud much of their income? These taxpayers voluntarily report their income to the government. Thus, if they can find out a way to evade the taxation net, they will normally try to evade taxes through whatever means possible, thereby destroying the equity of taxation.

Since our income tax law is based on the enumeration principle, incomes which are not enumerated in the tax law cannot be taxed. This principle has a meaning in that taxpayers can expect what types of income to be reported to the government. However, if taxpayers do not report enumerated incomes to the government, the original purport of the principle will be tarnished.

The income tax law classifies incomes into interest income, dividend income, real estate income, business income, wage and salary income, temporary property income, other incomes, retirement income and timber income. Therefore, taxpayers do not have the obligation to report income that is not enumerated in the income tax law and the
government also cannot impose tax on those types of income. Since incomes except for other incomes could be easily understood by the term itself, it is thought that additional explanation concerning them is not necessary.

Then, pursuant to the Korean income tax law, what type of income does a bribe fall under? Since a bribe does not fall under any type of income enumerated above, and if it does not fall under other incomes, it is a type of income that the government cannot tax. Article 21 of the income tax law enumerates as other incomes many items, such as prize money rewards, money or goods received by winning a lottery prize, lecturer’s fee, gratuity, etc.

Then, does a bribe come under a gratuity? The term “bribe” means illegal money, etc. which is given to a person who provides other persons with specific convenience using her/his official authority. A Korean language encyclopedia defines the term “gratuity” as money given for expressing gratitude. A bribe is generally given to a counterpart with illegal intention. Also it is mostly given under an unavoidable situation rather than from gratitude. Thus, we cannot say that the bribe comes under a gratuity.

The guideline 21-2 of the income tax law provides that a gratuity includes the following items which do not come under the other income: 1) money, etc. that a person who has no duty to manage a business on behalf of other person receives as a consideration of management. However, the expense that a person having no duty actually paid on behalf of the other person is excepted; 2) money, etc. that an employee receives from a transaction counterpart, etc. of an employer in relation to his/her job. However, money, etc. on which gift tax is imposed according to the inheritance & gift tax law is excepted.

Then, pursuant to the guideline of the income tax law, does a bribe fall under money, etc. that an employee receives from a transaction counterpart in relation to his/her job? Since a transaction counterpart customarily means a transaction counterpart of an enterprise, the government does not fall under this category. What is more, since the guideline of the income tax law is not a law or enforcement decree but merely a construction of an administrative agency, the guideline is not binding on the court and therefore the court can construe it differently from the construction of the administrative agency. Thus, if we construe according to the guideline of the income tax law, the gratuity that an employee receives falls under income and the gratuity which a government official receives can not fall under income.
The court judged “guilty” against Kim, Hyun-Chul who is the son of President Kim, Young-Sam, applying the gift tax evasion crime of the Tax Evasion Punishment law. It appears that, instead of the graft crime of the criminal law, the concept of gift of tax law was forcibly applied.

The term “gift” under the tax law means, without a consideration, provision of all things having economic value that are able to be converted into money, etc. and all legal and actual rights having the value of property. Article 554 of the civil law provides that a gift shall have its effect when one party manifests the intention to provide the other party with something without a consideration in return and the other party accepts it. If there is a consideration involved, then it is not a gift any longer.

Did the court apply the gift tax evasion crime since Mr. Kim, Hyun-Chul received money from enterprises without any consideration?

When enterprises provide politicians and government officials, etc. with a bribe, how do enterprises secure secret funds? Unlike an individual proprietor, the representative of a corporation cannot freely misappropriate its funds. This is because a corporation is an entity separate from its representative. Therefore, where the representative of a corporation misappropriates its funds, he/she would be charged with misappropriation. The criminal law provides that where an agent handling others’ business obtains a profit through activities in violation of his/her duty or damages a principal by having a third party obtain a profit, he/she shall be charged with embezzlement. Here, the term “principal” means a corporation and the term “agent” means a representative of a corporation.

Enterprises secure secret funds to provide politicians and government officials with a bribe and such funds are obtained through an illegal accounting. That is, as set forth in the previous Han Bo Inc. case, representatives of corporations often secure secret funds by recording false expenses in accounting books and illegally misappropriating the secret funds. Where the representative of a corporation misappropriates its secret funds obtained through illegal accounting, the tax law treats the secret funds as income of the representative and imposes taxes upon them.

Let’s take a look at the law concerning the business of a corporation representative.
Under the present commercial law, shareholders who have more than 5% of outstanding stock of a corporation can bring a suit against the representative of a corporation. This is called a derivative suit, and, in the developed countries such as the United States, requirements needed to bring a suit before the court are not difficult to be met and the rights of minority shareholders are substantially protected through this system.

Where activities of directors inflict damages on a corporation, minority shareholders may bring a derivative suit on behalf of the corporation and require directors to compensate for the damages on the corporation. Since directors of a corporation are selected by shareholders, it is not uncommon to find large shareholders who have significant influence on the directors of the corporation and substantially run the corporation. Therefore, there always exists a possibility that majority shareholders will violate the rights of minority shareholders.

When the representative of a corporation squanders assets of the corporation with bad management, minority shareholders will not be able to receive the dividend that could have been received had the corporation run under normal conditions. This is because the minority shareholders cannot participate in the management. In the meantime, majority shareholders will try to take advantage of such situation and seek to maximize their profit. Therefore, in order to protect the rights of minority shareholders, requirements for a derivative suit should be alleviated.

As shown in Han Bo Inc. case, abnormal management by majority shareholders and a representative can result in the bankruptcy of the corporation. If the rights of minority shareholders had been protected and if they had been able to substantially exercise these rights, they would not have experienced the pain of having to experience the value of stock falling to zero.

Where a representative of a corporation misappropriates its funds without authority and provides them as a bribe, the funds are usually secured by false accounting. The representative therefore is guilty of the embezzlement and subject to criminal punishment.

Even though the representatives of a corporation are well aware of such situations, they nevertheless continue to engage in bribery with politician, etc. Are they taking on charity activities in spite of the fact that they will be subject to criminal punishment?
Who on earth will believe the assertion that bribe was given without any consideration? Politicians know this fact very well also. However, if bribe cases are disclosed to the public, they will assert that it was not a bribe under the pretext of the “cake money.” The court has recognized this assertion to date. Their assertion is quite illogical and incomprehensible. Recently the Supreme Court has introduced the concept “comprehensive graft crime” but there still exists room for controversy.

Honest persons without unearned or evaded income generally do not have an extravagant life. They live a life suitable to their income. However, persons with large amounts of unearned income have a strong propensity to squander their money and make other persons feel sense of hostility.

If people earn their living by a just method and purchase expensive import boutiques, we cannot criticize them. In a capitalism society, people are entitled to enjoy as much consideration as they work. Persons who work hard and earn honest money do not corrupt our society. On the contrary, they can become a role model to the people who do not work hard. The consideration of their efforts is compensated by economic benefit. If there is no compensation for their efforts, the capitalism society cannot be developed.

The problem here is that there are too many people in our society who earned much money through an illegal method and they are exclusively enjoying economic benefits which otherwise they do not deserve. To solve this problem, both the government and the people must make an effort to achieve the equity of taxation.

**Concord between East and West & Reconciliation between South and North**

If I was asked, as a citizen, to list two requests to the present Participatory Government, I would ask the government to achieve 1) concord between East and West (elimination of regionalism) and 2) reconciliation between North and South.

In terms of manpower composition within the Administration, the present Government is in the most favorable position for dissolving the confrontation between East and West. Thus, it is expected that the present Government could make a significant contribution
towards development of the nation, if the existing confrontation between East and West can be completely eliminated by the hands of the present Government.

Moreover, the present Government attempts to maintain a cooperative North Korea policy in order to get over the confrontation between South and North. I believe this moderate North Korea policy will become a driving force for gradually encouraging North Korea to open up its doors to the outside world.

Consequently, it is expected that it will increase the possibility for reconciliation between South and North Korea; and thus increase the possibility for South Korea to escape from the current difficult situation.

If North Korea unfolds a gradual open-door foreign policy, it will progressively dissolve a danger of a war. This would be the best solution for helping our nation to escape from the current economic difficulties.

South Korea could escape from the 1997 foreign currency crisis by introducing foreign funds to South Korea. However, if we look at South Korea as one company in the world market, the foreign funds introduced to South Korea are equivalent to the debts that South Korea should repay to its creditors in the future.

There are two ways for a company to acquire funds: 1) bonds; and 2) capital. Thus, in case where the Korean government or a company acquires funds by issuing bonds, the interest that the Korean government should bear will be the amount of the London Inter-Bank Offered Rate (LIBOR) plus spread. Thus, the Korean government only bears a relatively low level of interest.

However, in case where the Korean government acquires funds by introducing foreign capital, it is possible that the amount of profits, which will return to the owners of foreign capital (i.e., return on capital), can be significantly higher than that arising from issuing bonds. As a result, if the foreign capital invested in Korea is not effectively utilized by the government, it is possible that South Korea will face a more severe economic crisis.

After the foreign currency crisis, the former government made significant efforts to stimulate domestic demands in order to strengthen the economy. This very economic
policy consequently led the people go into bankruptcy by inducing the people to excessively use their credit cards.

Basically, foreign capital should be used to increase the productivity; and thus increase the wealth of the nation. However, an enormous amount of foreign capital has been wasted, and the national debt continues to increase as a result of intemperate lavishness and waste.

In order to overcome a situation like this, which is our hope, we must strongly cooperate with North Korea, which has an inexhaustible potential for productivity, in order for them to maintain an open-door foreign policy. Thus we should search for a solution for reconciliation between South and North Korea.

It is already a well-known fact that an enormous amount of foreign capital invested in China plays an important role for development of China which has a great productivity potential (especially, labor productivity) and such a development will continue.

By the same token, where North Korea which has an enormous productivity potential opens up its doors to the outside world, it can be anticipated that North Korea will have a greater productivity potential than South Korea.

Thus if North and South Korea engage in an active trade, it will place South Korea to an advantageous position compared to other countries in utilizing the North’s productivity potential.

What is more, where South and North Korea cooperate with each other, it will help both South and North Korea escape from the economic crisis.

From the market economy’s perspective, North Korea is a new and uncultivated world. I believe, therefore, that if, through a detailed and long-term plan, both South and North Korea closely cooperate with each other for systematically developing North Korea, Korea will have the basis for rising to a powerful country within the global community.
Improvement of Korean Politics

- Separation of Three Powers –

The democratic government is generally divided into the legislature, the executive, and the judiciary according to the principle of check and balance. For a substantial democracy, it is very important that the reciprocal check function of these three branches work properly.

However, unlike a developed nation, power is generally concentrated on the executive in an underdeveloped nation because of the necessity of strong leadership. This logic might be appropriate at the time of an initial economic development. But where the consciousness level of people develops and they become accustomed to democracy, such unbalance of power can create many problems.

Where power among three departments is unbalanced, the head of the executive who has experienced the sweetness of power would try to continuously exert his/her power, and the legislature and the judiciary which must monitor the activities of the executive would conspire with the executive or play the role of the executive’s maid without any objection.

When the executive exerts a strong power and the legislature and the judiciary cannot properly play their role of checking it, the possibility of corruption using power becomes much greater.

When the executive exerts a strong power and falls into the swamp of corruption, the possibility increases that the legislature and the judiciary will also play the role of its maid and fall into the swamp of corruption. No matter how strong the power of the executive might be, it is difficult for the executive to act alone without the cooperation of the legislature and the judiciary because certain legal procedures must be kept.

After the 1960s, Korea has undergone a high economic development and the executive has operated a nation exercising almost every power. Although Korea has undergone high economic development, the strong power of the executive has resulted in many social problems such as corruption. Thus, the undeniable truth that absolute power will eventually lead to corruption also applied to the case of Korea.
After liberation from Japan, people who had never experienced democracy during the Chosun Dynasty and the time of Japanese imperialism gradually started to understand what democracy is. The number of prudent people increased and the government that had been exerting absolute power faced strong defiance from its people. Our democracy has gradually developed under such circumstances.

The fact is that the government has achieved great development in the field of economy by exerting its strong executive power. However, the government also should have been interested in the development of a system to support the economic development.

Although Korean society has achieved an external development, it has started to become internally ill. In the course of economic development, the government executed an economic policy largely for conglomerates and conspired with them, which led to serious corruption problems.

The same case can be found in Indonesia. The Segye Il Bo dated May 22, 1998 inserted an article entitled “From the father of development to corrupted dictator”. The principal content is as follows:

Suharto is a typical dictator who has exerted omnipotent power and ruled Indonesia, a nation with the 4th largest population in the world for the past 32 years. He is 76 years old and was elected president at the MPR conference on March 10, 1998. But despite strong support by the military, he faced economic crisis and an affair of bloodshed and then resigned his office because of domestic and international pressure under the control of the IMF.

In 1965, he grasped power in the course of suppressing a communist revolt and was respected as the father of development by achieving an average 7% of high economic growth per year using profits from the petroleum and gas industry until the foreign currency crisis took place last year. Especially in 1984, through an agricultural reform, he achieved the food self-sufficiency of Indonesia, which had been the largest rice importing nation in the world, and greatly contributed to having Indonesia join a line of Asian small dragons in the 1990s.

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Korean daily newspaper
However, he denied political and economic reform that corresponded to the external developments and thus, faced the IMF. As a result, he retired with disgrace as a corrupted long-term ruler, enslaved by the viewpoint of an anachronistic cold war. His 6 children controlled such key industries as the automobile, petrochemistry and bank, and they became tycoons within a short time and tried to grasp political power, causing illegality and corruption problems. The illegality and corruption finally resulted in the nose-dive of Rupiah in July of last year and a crisis that required an urgent blood transfusion from the IMF.

As capitalism develops, it is necessary that the development of a system to solve the problems of capitalism should follow. But in fact, we have neglected the development of this system thus far. The development of a system can become possible when the legislature and the judiciary can fully perform their roles. If the executive unilaterally makes bills while the legislature is just a branch that formally passes the bills and the judiciary does not properly exercise its power of reviewing their unconstitutionality, a properly established law cannot exist.

Since law, which is drafted by the executive, has a great effect on the social life of the people, if law is drafted for the convenience of administration and passed in the legislature without any filtering, the rights of people cannot be protected. Where the checking function of the legislature and the judiciary does not properly work, the executive can unilaterally exercise its administrative power and collude with tycoons, etc. causing serious corruption problems.

- The Importance of Model Political Activity -

Water flows downstream. Where parents are role models at home, children will generally resemble their parents. If parents do not show the right attitude toward life to their children, it would be useless for parents to try to educate their children to maintain a good life attitude. They simply will not follow what their parents say.

The same principle also applies to politics. If politicians are corrupt, no matter how they may try to persuade the people to live righteously, it will be useless. Whenever political power changes, politicians say that they will perform audits and inspections against illegality and corruption. However, the victims of the audit and inspection are normally low-level officers. Since the persons who should be subject to the audit and inspection
against illegality and corruption themselves boisterously shout out “audit and inspection against illegality and corruption”, the people show a bitter smile.

Although men of power and men of wealth are caught in the net of audits and inspections, they are not afraid. They are released under the pretext that they have contributed to social development and easily receive an indulgence of pardon.

If the upstream water is purified, the water downstream can also be purified. Thus, if a high ranking officer is purified, the necessity of audits and inspections against a low ranking officer will greatly decrease. Look at a society that is both culturally and economically developed! In that society, the higher their position, the cleaner their life. Of course, every society has corruption problems, but there is a big difference between developed nations and underdeveloped nations in terms of the degree of corruption. In general, high ranking officers of a more developed society has less propensity to corruption.

I had heard of vices of policemen who were in charge of drug traffickers on TV while I was in the United States for two years. Unlike in Korea, however, such cases are very rare. I have hardly ever heard of news that high ranking officers colluded with businessmen for the purpose of bribes although there have been minor political issues where politicians were suspected of raising political funds using the telephones and bedrooms in the White House.

Since the life of such politicians is normally clean, the media tries to exploit even such small things. In our society, cases related to illegality and corruption are reported almost every day. Thus, we cannot help worrying about the serious problems of our society.

Shamefully, some years ago, our two former presidents were incarcerated because they received bribes worth tens of billions Korean Won while they were in office and it was reported as a top news all over the world. Seeing that, it is clear that we still have a long way to go before our society truly develops.

In general, it is not easy for only one person to commit a corruption using power. A corrupted action is very difficult to commit unless officers cooperate with each other. This is especially true under the hierarchy system like ours where the line of approval
is straightforward. Therefore, all officers coexist through cooperation with each other.

Considering the fact that the life of a high ranking official is generally clean in the United States, we can understand why the vice of a low ranking policeman is often reported.

Even when the life of a high ranking policeman is clean, it may be difficult to control each and every activity of low ranking policemen who work in the field. Such a vice is not committed through internal collusion with a superior but rather largely committed through a face-to-face contact with a drug trafficker because of monetary temptation. Since this kind of vice seldom, if ever, leaves any kind of trace unless the other party snitches, policemen are tempted to commit an illegality.

The consciousness level of the people is proportionate to that of the persons who lead the nation. If politicians have clear consciousness, it will be natural for the people to have clear consciousness. The life attitude of each citizen has an effect on the development of a nation but the life attitude of politicians has a great effect on the destiny of a nation.

Politicians take part in the operations of a nation through the legislature and the executive, and are placed in the position of laying out long-term policies of a nation. Law that politicians make in the legislature has an effect on the operations of a nation until the law loses its effect. The long-term policy of a nation is performed by law or by administrative action based upon law. When politicians effectively operate the National Assembly, a nation can also be effectively operated.

In fact, although the executive, the legislature and the judiciary all play an important role in operating a nation, the function of the legislature is especially important. If the legislature fully plays its role, it influences the executive and the judiciary and results in the development of a nation.

The National Assembly largely consists of representatives directly elected by the people. Therefore, it can be said that it is an agency upon which the intent of the people is reflected very well.

On the other hand, in the case of the executive, with the exception of the president who
is elected by the people, almost all of the officers are appointed according to procedures prescribed by law. Even though the law is established by the National Assembly which is organized by the people, officers of the executive are not directly elected by the people. In this respect, the judiciary is the same.

Since the members of a local autonomous entity are also being directly elected by people nowadays, the number of officers elected by the people is increasing.

Members of the National Assembly elected by the people should be able to reflect the mind of the people. That is, unlike general government officers who hold a lifetime job once they are appointed, members of the National Assembly are elected every four years. Thus they should clearly grasp the people’s intentions and make a great effort to reflect it in setting up a national policy.

Up to now, the members of the National Assembly could not adjust themselves to the changing times and thus they were unable to greatly contribute to the development of a nation. They have been busy pursuing their own profits rather than contributing to a nation through the cultivation of competency and have thus spent much time on events that have nothing to do with the duty of a member of the National Assembly.

If the National Assembly faithfully plays its role, it will directly affect the executive and the judiciary. The National Assembly has the right to inspect or audit the executive. Also, if high ranking officers commit an illegality, it can impeach them. However, the problem is that these systems do not work well in Korea.

If the National Assembly wants to inspect the business of the executive, it must be able to thoroughly grasp what is going on in the executive. By doing so, it can accomplish its purpose of inspection. Where its members do not prepare in advance and clearly have an understanding of what they are going to inspect, the inspection will end in form only.

To prepare for inspection by the National Assembly, the executive must invest a lot of time and expense. However, if the legislature inspects the business of the executive by investing a great deal of time but does not achieve its inspection purpose, the time and expense invested in the inspection become the loss of an opportunity expense. These expenses are paid from the taxpayer’s money.
Also, such an insincere inspection against the executive becomes an opportunity for officers of the executive to evaluate the ability of the members of the National Assembly. If the inspection ends in form only, officers of the executive would think that the members of the National Assembly are incompetent and that no problems will arise even if they roughly prepare for an inspection against the executive.

Many politicians said that the executive was solely responsible for our foreign currency crisis. In fact, however, it must be said that the foreign currency crisis was a joint product of the executive and the legislature. During the legislature’s annual inspection of the executive, if its members had fulfilled their duty, they could have foreseen such a foreign currency crisis. If the legislature cannot grasp the problems of the executive and perform its legislation function well, there should be no reason for the legislature to exist.

However, we need to recognize that the people are in part responsible for the incompetence of the National Assembly. In fact, it is the people that have chosen the members of the National Assembly. Thus, the people cannot blame anybody but themselves.

- Election and the Substantial Chance of Selection -

In the past, whenever there was an election, rubber shoes, wheat flour, money, etc. were scattered to voters. Since the level of voter’s consciousness concerning democracy was very low at that time, such things had a great effect on the outcome of an election. However, as the education level of voters and the consciousness level concerning democracy improved, this phenomenon has gradually disappeared.

Past voters were very naive. Thus, they generally cast a vote for the candidate who furnished them with money, etc. However, as time passed by, our society has become a society in which money alone cannot control the outcome of an election and this indicates the development of our society. Unfortunately there are people who still sell their consciousness and receive money, etc.

Voters did not have any substantial opportunity to select a good candidate in the past. The reason was due to the same candidates almost always running for election and voters rarely having had the chance to see fresh candidates. Thus, taking into
consideration that any candidate tends to get corrupted, the people believed that it would not matter if they would cast a vote for any candidate.

The related authority says that all the people must participate in an election but the people feel burdened whenever they hear it. Thus, voters sometimes cast a vote for a candidate who furnished them with money, etc. in despair. That is, voters did not have any substantial opportunity for selection but only a formal chance of selection.

Among present members of the National Assembly, there are persons who make us doubt whether they possess a basic qualification to be the representatives of the people. Now, we can still see representatives who have been indicted and incarcerated on charges of receiving hundreds of millions or billions in KRW, and then being released with pardon, etc. and again participating in politics. Who selected these representatives? The voters have. Therefore, we cannot blame anyone except ourselves even if we were to suffer from economic crisis once again.

The reason why such persons could be elected sometimes is because of regional emotions that damage national harmony. Politicians use demagogic words instigating regional emotion and voters emotionally cast a vote losing reason, abetted by these demagogic words. Thus, although everyone is aware of a candidate having many problems, the candidate is elected a representative of the people. That is, voters give up reasonably exercising their voting right given to them.

If voters cast votes under the premise that there are no candidates in our society without flaws and therefore there is rarely a difference between the candidates in light of corruption, they cannot have a substantial opportunity for selection but merely a formal chance of selection.

Under such circumstance, even if voters does not participate in an election, it would be very difficult to criticize voters for giving up their precious voting rights.

Then, what is a substantial opportunity for selection? Modern society is continuously becoming complex and specialized, and population also is increasing. Under this social structure, it is impossible for the opinions of all individuals to be reflected in the operation of a nation. However, even if reflecting the opinion of every person is impossible, where the intention of the people is disregarded, there cannot exist a true
democracy.

Every person wants our nation to develop and hopes that he/she may have a chance to select a politician who is able and clean for the development of our nation. If the people cannot obtain such an opportunity, there would be no room of the true intentions of the people being reflected in the operation of a nation. This is directly against a democratic principle that a nation must be operated according to the intention of the people.

In Korea, an election is performed without substantial screening to ascertain whether a candidate is fully qualified to be a representative of the people. Voters cannot help selecting one candidate among other candidates who are publicly recommended by a party and are instigated by regional emotion under the influence of demagogic politicians. Therefore, the substantial opportunity for selection by voters decreases.

What if the people directly cultivate politicians instead of solely relying upon a party? Then, it might be that a substantial opportunity for selection would increase.

- Problems of Korean Politics -

First of all, let’s look at some problems in our politics that we are well aware of.

1) Voters have no interest in the cultivation of honest politicians. Thus, politicians are largely cultivated by “under-the-table” funds and thus there is no possibility of political development.

2) Since regional emotions run deep, each party cannot breakaway from its regional party and naturally consists of persons of the same region. Taking into consideration this reality, it can be justifiably said that the regional party is created by the instigation of politicians rather than the voters.

3) Because the operation of a party is not transparent and funds are largely secured by an “under-the-table” method, whenever there is an election, each party makes a great effort to obtain money from a person who wants to run in the election for consideration of a public nomination. As a result, a person who has lots of money rather than a person with competence can easily receive a public nomination from each party.
4) Each party tends to be operated by an antidemocratic method, rather than through a democratic method, pursuant to the intentions of a single individual who has a substantial power. Thus, a problem occurs that a person who works based on his/her beliefs is shunned and a person who sees how the wind blows succeeds.

How can we solve these problems? Can we obtain the best answer to this question? Let’s examine an actual case before discussing a solution. The following article was inserted in the Joong Ang Il Bo\textsuperscript{16} published in the United States on April 19, 1997.

\textit{One member of the National Assembly disclosed the details of his political fund’s revenue and expenses for the past 3 years. He said that he had received KRW 50 million from the Han Bo Inc., but he did not personally misappropriate it or use it to accumulate his own wealth. It seems that he spent KRW 3 billion during the most recent 3 years.}

\textit{He said, “While I worked for 3 circumstance organizations, such as the circumstance forum of the National Assembly, etc., I spent KRW 0.95 billion for the inspection of water quality of five rivers, and its related legislation and policy planning activities from 1994 to 1996.”}

\textit{Also he said, “At the time of the election of the members of the National Assembly on April 11, 1996, I gave 167 candidates money ranging from KRW one million to KRW tens of million per person. At the time of the election on June 27, I gave respectively KRW 0.1 billion to 11 candidates of the same party for the chief of a local government, KRW 0.5 million to 200 candidates for the chief of a basic local government, and KRW 0.3 million to candidates for a local assembly.”}

\textit{That is, he spent at least KRW 2 billion during two elections... How did he obtain this money? According to a person in charge, money spent on circumstance organizations came from related enterprises. Therefore, it is clear that the remaining money came from entrepreneurs or politicians... He said, “In addition to the help received from entrepreneurs, I sold my 10 folding screens worth KRW 150 million and pictures obtained from relatives for free and used them for political activities.”}

If the member of the National Assembly spent more than KRW 3 billion for 3 years, it

\textsuperscript{16} Korean daily newspaper
means that he spent more than KRW 1 billion per year and around KRW 0.1 billion per month. Since this amount might not include expenses incurred for personal and other events, if those expenses were to be included, the total amount would greatly increase when taking into consideration the reality of our politics.

The reason why I reinserted this article is because I wanted to emphasize that people should correctly recognize the reality of Korean politics. If a politician must spend more than KRW 1 billion for politics per year, it comes to the conclusion that not everyone can perform clean political activities unless he/she is wealthy enough to spend the amount of money necessary for political activity.

There are persons among politicians in the United States who run for presidential election using their own money. Considering the political circumstance of the United States in which the accumulation of wealth using a power is very difficult, it is thought that they are willing to sacrifice themselves for their nation spending their own money.

Unfortunately however, we have rarely heard of a politician among politicians in Korea who is willing to sacrifice him/herself for our nation by spending his own money. On the contrary, there are only reports that politicians accumulated their wealth while in power.

In our present circumstances, it is difficult for us to expect our politicians to be like the politicians of the United States. However, we cannot deny that members of the National Assembly need significant sum of money for political activity. Can we criticize these members on the ground that they spend excessive money for political activity?

Let’s realistically think about this situation. Have residents ever given donations to their representatives wholeheartedly? If a person makes a donation asking his/her representative to work hard for his/her region and residents, he/she is a person that knows what democracy is. However, if he/she gives his/her representative illegal money to satisfy his/her desire, the situation is quite different.

In fact, regardless of whether it’s before or after an election, representatives of the National Assembly have to spend significant sum of money for various events, including personal ones. Also, there are often voters who demand money, etc. from their candidate or representative under every kind of pretext. Representatives cannot disregard their demand because they must take into consideration the next election. As
set forth above, in addition to various types of events, representatives have to expend money on many things.

Where residents do not support their representatives and the representatives cannot pay for their expenses with their allowance received from the government, they cannot help but try to obtain illegal funds by using their power since they need money to maintain their position. Thus, if that is the case, we cannot criticize only the representatives.

Let’s assume that the projected expense of a certain construction is KRW 10 billion. If we require a constructor to perform the construction at KRW 5 billion, the construction is not possible.

Our politics has a structure that requires a high level of expenditure. Nevertheless, we ask our representatives to perform political activities at a low expense. Thus, under the present circumstance, no representative can satisfy our demands. Despite the fact that lots of money is required for politics, if we ask our representatives to conduct political activities at a low expense, it would be very unreasonable.

- Improvement -

The answer is simple. We should create a good circumstance to improve our political system so that our representatives are able to conduct political activities at a low expense. If money is necessary to some extent, we should furnish them with clean political funds. To improve the political system is the role of the National Assembly. Therefore, solving this problem should be left to the members.

If our representatives need money to some extent, we should furnish them with clean political funds. Then, how can we secure such clean political funds?

The answer can be obtained from local residents rather than politicians. If local residents were to show interest in politics and also save their living expense a little more, it would not be impossible to solve the problem.

Let’s take the No-won Gu of Seoul for example. It is said that the population of No-won Gu is approximately 600,000. If each resident makes a contribution of KRW 10,000 to a
party, the total amount would be KRW 6 billion (600,000 x KRW 10,000). Assuming that 4 persons live in one household, if the head of a household gives up drinking just once and uses the money as a donation, how many able politicians can the residents of No-won Gu cultivate?

If we assume that one representative uses KRW 1 billion per year, the KRW 6 billion can be used for the expenses of 6 representatives. Of course, since there is also a government subsidy, the expenses of more than 6 representatives can be covered. Also, where corporations and others make a donation, that number would increase.

In the case above, one representative of the National Assembly said that he gave approximately KRW 2 billion to candidates for the chief of a local government. This expense of KRW 2 billion would be not necessary if our political circumstance is improved. Therefore, if this amount had not been incurred, the representative would have spent KRW 1 billion (3 billion - 2 billion) for 3 years and his annual expense would have been approximately KRW 0.3 billion. Thus, the KRW 6 billion that the residents of No-won Gu donate can be used for the expense of 20 representatives.

Impatient readers might ask “Why do we have to bear such expenses?”

I fully set forth the problems of our politics until now. As we well know, many voters have unintentionally received money and other things from candidates whenever there was an election. They received KRW 10,000 or KRW 20,000 or KRW 100,000 from candidates, and now are paying back a thousand or ten thousand times what they received.

Elected candidates colluded with entrepreneurs and others to retrieve what they had invested and it led to a serious government-business collusion that finally resulted in foreign currency crisis.

The government has since liquidated the bad debts of banks, which amounted to tens of trillion Korean Won, from the taxpayer's money. In addition, the bankruptcy of countless enterprises resulted in an unprecedented unemployment rate. Moreover, some people who had lost their jobs chose the worst method of escape, such as family suicide, etc. and countless heads of households became vagabonds. Thus, voters paid back hundreds of thousands times more for what they had received.
Who is responsible for this? It is the responsibility of the people who produced corrupt politicians. We cannot blame anyone but us. If we had developed a system for cultivating able politicians, we would not have faced such an economic crisis.

If such a circumstance is created, shameless persons that demand offerings of congratulations and condolences at such occasions from representatives would disappear, and the representatives would not be burdened by it. Of course, enterprises can also make donations and enjoy tax benefits by way of a donation credit as do individuals.

Under such circumstances, representatives will be able to reduce concerns about money. And able persons, even though they have no money, will be able to more easily participate in politics. A political party can admit an able person as a member of the party and politicians will endeavor to improve their ability since they will have to compete each other.

Under such circumstances, voters can receive the best service from the government and pass on a Great Korea to descendants from generation to generation. If representatives possess the right way of thinking and necessary ability, they can check the arbitrariness and inefficiency of the executive. The legislature will do its best for the people and illegality and corruption will gradually vanish. Also the efficiency of the government will be improved and the people can receive a better service from the government paying less tax than now.

We should not forget that the astronomical amount of money that should be collected as taxes is going into the pocket of an individual because of legality and corruption. If such legality and corruption were to vanish, tax revenues also would astronomically increase.

With increased tax revenues, the government can pay those competent and hard working government officers a salary corresponding to their ability to turn them away from the temptation of corruption. It can also invest more money on the development of a nation and the welfare of the people, and the people can stately exercise their rights after paying their taxes.
Under this atmosphere, the government can take a strong measure against politicians receiving informal political funds from enterprises, etc. Since enterprises can shake the fear of confidential funds, the problem of the high expense and low efficiency can be naturally solved. Since 1), 2), and 3) among the 4 problems related to Korean politics as set forth above can be resolved, more explanation would not be necessary.

Although the character of problem 2) is a little bit different, the situation would still be changed. Where the participation spirit of voters becomes strong and competent politicians are cultivated, out-of-date politicians who instigate regional emotions will lose the place where they stand.

Because politicians conduct political activities under the support of residents, a politician who residents trust will be able to perform his political activities without feeling the burden of “going with the wind.”

Also, since residents cultivate politicians with their own money, incompetent politicians would be shunned by residents. Thus, politicians would want to actively conduct their political activity based on their own beliefs and the term “regional party” based upon instigation and unreasonableness will gradually vanish.

It is very natural that a person from the Kyung Sang Nam Do Province who knows well the situation of the Province and the emotion of its residents becomes its representative. Likewise, it is not a problem that a person from the Chul La Nam Do Province and a person from the Kyung Sang Buk Do Province becomes the representative of the respective Province. The problem is that a specific party consists mostly of persons from a specific region and the representatives of a specific region consist almost entirely of politicians of a specific party.

If they could not conduct political activities without the contribution from its residents, such an abnormal situation would not take place. If representatives try to unreasonably seek only the profit of their own party rather than the voters, voters would not contribute their own money to such incompetent representatives.

Recently, many people have said that shirking representatives must be recalled. However, it would not be as easy as the general public might think. On the other hand, it would be important that the people have active interest in politics lest politician could
succeed in politics but for the support of the people. The government should also lead the people to actively participate in politics through P.R., etc. and make an effective system under which the donation of the people could be used effectively for the development of our politics.

Where our political system starts to change under the interest of the people, there would be no necessity of the people worrying about the misuse of their donation since law would not forgive a person who violates the rule. If there are persons who try to pursue solely their own desire and money even under such good political circumstances, there would be no room for extenuation.

Whenever our nation has faced crises, we have overcome them with the unified power of all the people. Under the foreign currency crisis, all the people showed unified power by participating in the Gold-Gathering Drive once again.

From now on, we must change our attitude. We must develop our ability to be able to cope with a crisis before we face a crisis rather than shouting patriotism at the moment of the crisis. In order to do so, it is necessary to cultivate the ability of all the people. Taking into consideration our high passion for education, if every field of our society makes an effort all together, we will be able to achieve such an ability before long.