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The image of two former presidents Chun Do-hwan and Roh Tae-woo on trial in light blue prisoner uniforms, televised on international networks worldwide, will be remembered by many as a triumph of justice. After 13 months since the beginning of the trial, they were finally convicted of mutiny and high treason on 17 April 1997 for the military *coup d'etat* of 1980. Chun was sentenced to life imprisonment, and Roh was given 17 years in prison. Although many may have applauded current President Kim Young-sam for his role in the prosecution of the two former presidents, such a presumptuous judgement neglects the long history and the political background leading to the historical trials, putting not one but two former presidents on the stand.

In looking at the true significance of their prosecution, one may be able to look back at the extent to which human rights violations took place, just how much was sacrificed in the relentless struggle for justice and truth and where we stand at this point in time after approximately three months since the final verdict. Although there are no exact estimates because of the lack of a thorough investigation, the Kwangju incident<sup>1</sup> alone resulted in more than 200 deaths of innocent civilians. Countless mysterious deaths, disappearances<sup>2</sup> and people arbitrarily detained and tortured by the secret police are only some of the heinous crimes against human rights without going into detail about massive violations against all forms of fundamental rights of freedom of thought, opinion, expression, association, assembly and demonstration to mention only a few. It would not be within the capacity of this document to describe all of the different forms of human rights violations which took place under the past military dictatorships and how conscientious forces have struggled against such violations to bring justice nor is it the purpose here. It is the purpose here, however, to look at where we stand - at how the current administration has allowed talk of granting amnesty to the two former presidents to take place even before their trials were concluded while their victims, both dead and alive, continue to suffer as a result of all that was committed under the past military dictatorships.

The true significance of this historical prosecution is not in that it is seen as the final realization of justice but in that it is seen as an opportunity for the first step towards true democracy and justice where human rights are guaranteed. In this respect, amnesty of the former presidents without bringing out the full truth and accountability goes against the spirit which brought about the historically significant event, in effect, negating all possibilities for it to bear fruit.

**Background Leading to the Trials of Chun and Roh**

The process of bringing former Presidents Chun and Roh to trial was not an easy one. After the prosecution failed to make an indictment on two occasions on 29 October 1994<sup>3</sup> and on 18 July 1995,<sup>4</sup> President Kim Young-sam appealed to the public to "let history be the judge." However, because of the continued efforts of human rights organizations and other non-governmental organizations (NGOs), the 18 May Special Law<sup>5</sup> was enacted, which led to a reinvestigation, indictment<sup>5</sup> and finally the trial of the two former presidents by the beginning of 1996.

Although the continued struggle for justice and democracy ultimately led to pressuring the government to prosecute the two former presidents on charges of high treason, the trials concluded without fully revealing the truth behind all those responsible for the Kwangju Massacre and the incidents surrounding the *coup d'etat*. In spite of such elements, the

prosecution of Chun and Roh is undeniably a great achievement in modern Korean history. However, efforts to correct the wrongs of the past and bring about reforms cannot come to completion without reforms to unjust laws and the legal system, without healing the pain of all the victims of the inhumane crimes committed under the past military dictatorships. Hundreds of innocent civilians massacred in the Kwangju People's Uprising protesting against Chun's military coup, thousands of prisoners of conscience illegally held incommunicado and tortured and numerous mysterious deaths and disappearances are only some of the past wrongs yet to be addressed.

In spite of such important tasks left undone, the remnants of the Fifth and Sixth Republics under Chun and Roh respectively still remain. Past wrongs continue to be present wrongs. The so-called 'spies' of fabricated espionage cases, student activists, political figures and opposition leaders still remain in prison after having been prosecuted to maintain the power of illegitimate dictatorships. Currently, there are 35 prisoners of conscience still held in prison after being unjustly convicted under the past two presidents. The majority of them were arrested illegally without warrants and taken to intelligence organs. They were held incommunicado up to seven months and subjected to various forms of torture, such as electric torture, water torture, sleep deprivation, physical beatings and sexual tortures. As a result of unfair trials, they were given heavy sentences, including life imprisonment, and currently the longest serving prisoner of conscience<sup>6</sup> from the Fifth and Sixth Republics is in his 18th year of imprisonment. All of the prisoners are suffering from various illnesses, including high blood pressure and arthritis, as a consequence of torture and the extended period of imprisonment.

Moreover, people continue to be arrested under the pretext of national security. Freedom of association, assembly, demonstration and opinion continue to be violated. Without the release of all prisoners of conscience, without revealing the full truth behind past human rights violations, without compensation and the restoration of dignity of all victims and without full accountability of those responsible for past and continuing violations of human rights, the prosecution of the former presidents loses its significance as a step towards justice and democracy.

However, there is now talk among certain political circles of granting amnesty to the two former presidents in the spirit of "reconciliation."

### **The Meaning of 'Reconciliation'**

Talk of amnesty crept up in political circles as early as April before the trials of the former presidents were concluded on 17 April 1997. According to news reports, on 5 April, Kim Yoon-hwan,<sup>7</sup> advisor for the ruling New Korea Party (NKP), stated, "It is desirable that President Kim Young-sam take care of what he started within his term." This is a reference to possible amnesties for the two former presidents as a final conclusion to the prosecution. Yi Hwae-chang,<sup>8</sup> former representative of the NKP and currently running for the NKP candidacy for the presidential election,<sup>9</sup> has spoken of granting amnesty under the pretext of social unity. Opposition parties have likewise proposed the idea under the condition that Chun and Roh show remorse for their crimes, carefully eyeing public reaction and sentiment on the issue. On 13 July, *Dong-A Ilbo*, one of the main newspapers in south Korea, printed "Proposal for Amnesty of Chun and Roh by Winning Candidate of New Korea Party Late July" as top headline news. The article stated that *Dong-A Ilbo* had obtained the NKP's "Project Baekdoosan," otherwise known as "Project Everest," entitled "Main Activity Plans for the 15th Presidential Election." According to the article, the latter document states that the party candidate<sup>10</sup> nominated for the presidential election will propose the amnesty of the two former presidents to President Kim Young-sam in late July.

Reconciliation and reconstruction have been two reasons often put forth in justifying amnesty. They attempt to argue that we need to repair and reconstruct the social fabric, looking to the future instead of dwelling in the

past. They claim that reconciliation is necessary for national unity. While the issue of amnesty is justified under "reconciliation" by politicians, victims of torture, prisoners of conscience and all of those fighting for justice and truth are left wondering, "What is the meaning of what they call 'reconciliation'?"

### **Amnesty and Impunity**

The system of presidential pardon, or amnesty, is one way in which the distribution of power can be realized in a democratic society, that is, when the judiciary has failed in carrying out justice, the executive may intervene as a last resort of redress. However, such a system is not an absolute right of the president nor can it be used arbitrarily. It is a presidential right only in so far as it reflects the will of the people. The principle behind the concept of amnesty is such that ultimately justice is carried out when the system has failed for one reason or other. This would mean that amnesty is carried out for the benefit of the whole society under the principle of equality and fairness rather than for individual gains.

However, history has shown case after case in which this right has been abused. As self-evident in the term "self-amnesty," much too often amnesty is granted under political motives for personal gains: it is against the true spirit of amnesty. This is nothing less than impunity - an exemption from punishment. This could be either as a result of historical indifference or as a result of a conscious policy, but the importance of bringing accountability to those responsible for human rights violations lies in prohibiting such occurrences in the future and in proclaiming the principle behind human rights - of respecting humanity. It is within this context that the issue of impunity has been one of the central issues in the protection of human rights. Impunity ultimately results in the perpetuation and silent acknowledgement of human rights abuses. In that sense, not only is it important to correct past wrongs, but it is equally important to remember and see how those past wrongs carry on to current problems, thus, resulting in the continuation of the legacy against human rights. Things of the past hardly ever can be left in the past. Past problems become problems of today.

### **Undeniable Conclusion**

The current administration, undeniably different from past military rules, was possible as the result of a three-party merger in which then opposition leader, Kim Young-sam, joined the ruling powers to become the current president. Although President Kim was hailed as carrying out his policies for "clean government" when more than 50 people were convicted and imprisoned for corruption immediately upon his inauguration, they have all been granted amnesties throughout his five-year-term. With the recent Hanbogate scandal, which resulted in the arrest of numerous politicians, including Kim Hyun-chul, the second son of the current president, and continuing allegations of the involvement of the administration in what can be called the greatest corruption scandal yet, it is difficult to see the current administration as having the authority to grant amnesty to the former presidents.

Not only are many of the current politicians connected directly or indirectly with the past illegitimate regimes, but those running for the presidential election in December of this year have blatantly used the issue of granting amnesty to target voters from the area of Taegu in North Kyoungsang Province, home of the two former presidents. One must question then: "Who has the right to grant amnesty to the two former presidents? Who has the right to talk of reconciliation and reconstruction?"

The answer to that question is not an easy one, especially in light of differing opinions regarding whether amnesty should be granted at all. However, whether amnesty could be condoned under humanitarian grounds and under the condition that they show remorse or whether it cannot be tolerated under any circumstances, the issue of amnesty can only be dealt with in any serious manner by future administrations after the groundwork

for reforms and human rights has been laid out.

Without the serious consideration of the will of the whole nation in implementing amnesty for the former presidents, talk of "reconciliation" seems futile and only adds to further regional alienation and tension as the people of Kwangju in South Cholla Province continue to feel victimized and violated. True reconciliation and reconstruction can only come about when there has been full acknowledgement of what happened, an investigation into all violations of human rights, identification and reformation of social conditions under which human rights violations took place, institutional and legal changes and last, but not least, compensation for victims, including financial compensation, rehabilitation and the restoration of their dignity.

In the words of one Korean person, who addressed the issue in the most poignant of terms:

"Those speaking of amnesty must run to the people of Kwangju, the people of South Cholla Province. They must deeply regret for their ignorance and silence during the past 17 years that the people have suffered in agony. They must fall to their knees and sincerely give condolences and honor those who have been in pain for the past 17 years to correct past wrongs, struggling for truth and justice. Only then can they appeal to the spirit of Kwangju for reconciliation."

#### **Our Demands:**

- Any possibilities of amnesty for Chun and Roh against the will of the people must be withdrawn immediately.
- All people responsible for the illegal acquisition and maintenance of power by the military must be held accountable and brought to justice.
- Investigation into all violations of human rights must be carried out; the full truth must be disclosed; and victims must be compensated and given due respect.
- All institutional and legal practices and systems of an undemocratic and unjust nature, instituted and/or revised under the past military dictatorships, must be repealed and/or reformed so as to bring about institutional and legal justice and democracy.

#### **What You Can Do**

- Send letters, statements, appeals and faxes protesting against the amnesty to the Korean government and the Korean embassy or consulate in your country and urge others to do so.
- Urge government officials, organizations, the press and media and other figures to take up the issue.
- Write commentaries or articles to the local and national press to publicize the issue.

Send appeals to:

President Kim Young-sam  
The Blue House

1 Sejong-no, Chongno-gu  
 Seoul 110-050,  
 Korea  
 Telegrams: President Kim, Seoul, Korea  
 Telexes: 24651 or 24652 or 24653 WOIMUBU K  
 Fax: (82) 2-770-0253

Minister Ahn Woo-man  
 Ministry of Justice  
 1 Chungang-dong, Kwachon-myon  
 Shihung-gun, Kyonggi Province  
 427-010, KOREA  
 Telegrams: Justice Minister Ahn, Shihung-gun, Kyonggi Province, Korea  
 Telexes: 24757 MOJUST K  
 Fax: (82) 2-504-3337

### Endnotes

1 The Kwangju People's Uprising, also referred to as the Kwangju Massacre, was an incident in which the residents of Kwangju rose up in 1980 beginning on 18 May until 27 May in protest against the military coup by Chun Do-hwan. The incident was considered a "riot" by the government until the prosecution of the former president. At the demands of NGOs and the citizens of Kwangju, 18 May has been designated as a national memorial day as of 1997. Protests were not limited to the Kwangju area in and around the time of the military encroachment of political power, and the general will for true democracy and the dissatisfaction with the status quo had been growing throughout the 1970s, resulting in nationwide protests.

2 Disappearances in south Korea mainly refer to those who disappeared during the Kwangju Uprising. They are most likely dead. People were buried alive in large numbers at various unknown locations by the military at the time; and although some places were discovered throughout the years, there still remain many unconfirmed deaths.

3 NGOs dealing with the Kwangju Massacre organized a collective suit against those responsible for the incident. However, on 29 October 1994, although the prosecution acknowledged allegations of the military coup of 12 December 1979, it suspended the indictment.

4 On this date, the prosecution announced that "a successful *coup d'etat* cannot be prosecuted" - again declining to take action.

5 Chun was indicted on 5 December 1995, and Roh was indicted on 12 January 1996. The arrests of Chun and Roh was initially instigated by allegations of corruption after which President Kim Young-sam ordered the enactment of the 18 May Special Law. Charges of mutiny and high treason were added after their indictment.

6 Sok Dal-yun, age 67

7 Kim Yoon-hwan was among the central figures during the Fifth and Sixth Republics and was given national recognition for his role in the 18 May coup.

8 Yi Hwae-chang was a Supreme Court judge under Roh's Sixth Republic, responsible for the prosecution of many prisoners of conscience.

9 The next presidential election is scheduled for 18 December 1997.

10 The NKP convention for the nomination of the presidential candidate is

scheduled for 21 July.

*(Source: E-mail from MINKAHYUP Human Rights Group, No. 1997-4, July 1997, Seoul, south Korea.)*

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