

# **A Study on Disharmony/Conflicts in the Executive Branch of the Government**

HWANG, KYO-SUN

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## **I. INTRODUCTION**

### **1. Introduction to the Subject**

The form of the Korean government has been a presidential responsibility system with certain aspects of the parliamentary cabinet system in terms of power structure. The position of the Prime Minister came as a result of a compromise between the presidential responsibility system and the parliamentary cabinet system. Despite the existence of the Prime Ministership, more emphasis has been placed on the presidential responsibility system than the parliamentary cabinet system.

The emphasis has been placed on the presidential responsibility system on the ground that it would contribute toward the political stability of the country.

To look back at the past of the evolution of the Korean Constitution, it is easily found that a fundamental mistake was committed when the Constitution and the Administration Organization Law were made.

Syngman Rhee, the first President of the Republic of Korea, created the office of the Prime Minister with a view to balancing the political power among key positions in the Executive Branch by allocating the Prime Ministership to the Handok Dang, one of his main rival political parties.

In practice, however, the former President Rhee did not want to give a substantially strong power to the Prime Minister, and, instead, wanted to see the Prime Minister become powerless or a nominal figure head.

Without figuring out the true intention of President Rhee, on the other hand, those, who were given the task of drafting the Constitution and the Administration

Organization Law, made the two laws in such a way that the Prime Minister can have a powerful coordination authority. This way, there was a major discrepancy in the intentions of the man who was in a position to lead the nation and those who made the laws. The discrepancy caused the gap between the legal and practical status of the Prime Minister.

Although it is not set out straightforwardly, there are several clauses in the Constitution providing that Korea is a constitutional state. However, no one would deny that ever since the inauguration of the Republic of Korea, no Prime Minister was able to wield his power corresponding to his status.

Since the Republic was set up, there have been 33 Prime Ministers, but most of them served only for a short span of time.

Under such political circumstances, controversies flared up time and again. Many argued that there is no need for the Prime Ministership under the virtual presidential responsibility system. The controversy has adversely affected the development of a sound and efficient political system in Korea.

## **2. Purpose of the Study**

An era of economic competition has replaced the post-cold war era. We are now entering an era of industrialization. At this turning point, we need to establish a new political order. For this, we have to change and improve the government system in order to better cope with the internationalization. Distribution of the government power should be strictly based on the rule of law, while the democratic government structure should also be based on the principle of the responsible politics.

The Chief Executive of the government, other high-ranking officials of the Executive Branch and government officials should make their utmost efforts to set up and nurture the rule of law and a democracy that suits the particular Korean situation. They should also give up their past egoistic practice of clinging to the authority of the power. They should strive to improve the form of government so the country can reach the level of an advanced country. They should form a political climate in which the rule of law, which is the foundation of democracy, and the responsible politics can take root firmly.

The purpose of this study is intended to suggest several ways to place the Prime Ministership on a normal position.

## **3. Method and Scope of the Study**

The study will review the past evolution of the form of government and suggest a

new government form which will better suit Korea on its way to internationalization. The study will have a look at the 50-year history of the Prime Ministership and its characteristics, along with a review of the legal status of the Prime Minister under the present Republic of Korea Constitution and the practical position of the Prime Minister in terms of the practical politics of Korea.

The study will also look into the theoretical background of the disharmony and suggest the ways of negotiation for the removal of the conflicts/disharmony involving the Prime Ministership. Along with the theoretical study, several ways of realizing the rule of law, which is the backbone of a democracy, were also examined in an effort to find out the methods of strengthening the coordinating role of the Prime Minister.

At the end of this paper, a conclusion was made by summarizing the findings of the study.

## II. THE FORM OF GOVERNMENT IN KOREA<sup>1)</sup>

### 1. Evolution of the Form of Government Viewed from the Past Amendments to the Constitution

#### (1) Form of Government of the First Republic

During the life of the first Republic (1948 - 1960), the Government System was changed twice by two amendments to the Constitution.

The form of government introduced by the first Constitution in 1948 was the presidential system but it was actually a mixture of the presidential system and the parliamentary system. It was a political compromise reached between rivaling political factions when the first Constitution was made. Basically speaking, it was a presidential system, but strictly speaking, it was a transformed presidential system or a mixture of the presidential system and the parliamentary system.<sup>2)</sup>

The first amendment to the Constitution brought the direct election of the President by the people. Originally, the President was supposed to be elected indirectly by the National Assembly. Another change made by the first amendment was the adoption of a two-house legislature from the original one house legislature.

The second amendment to the Constitution, which was passed by rounding off the cast ballots to the nearest whole number, abolished the Prime Minister system. It also repealed the no confidence vote against the whole cabinet, and instead adopted no confidence vote against individual cabinet members. It was also the second Constitution that introduced the system of plebisate or the national referendum in deciding major national policies.

## (2) Form of Government of the Second Republic

The Constitution, amended in 1960, introduced Korea's first parliamentary cabinet system. Its main features included:

1) The President is the head of the state and ceremonially represents the nation. The President is elected by the parliamentary members in a joint meeting of the lower and upper houses. The President has the authority to name the Prime Minister, appoint the judges of the constitutional court and can reject the government request for a martial law. The President also enjoyed several exceptional but practical rights such as the right to approve the government request for the dissolution of an unconstitutional political party.

2) Practical executive rights belonged to the cabinet headed by the Prime Minister. The President named the Prime Minister and referred his appointment to the approval of the parliament. The Prime Minister was appointed only after the sanction of the parliament. The cabinet ministers were appointed by the President as proposed by the Prime Minister.

3) The President followed the proposals and resolutions of the cabinet, and all the presidential decisions needed counter-signatures of relevant cabinet members.

4) The Prime Minister and more than a half of the cabinet members were required to be appointed from among the parliamentarians.

5) The cabinet members had the right to propose a law bill to the parliament and attend and speak in parliamentary sessions.

6) The parliament was made up of two houses, and the lower house had the right to file the confidence vote against the cabinet, while the cabinet had the right to dissolve the lower house. However, the cabinet was able to exercise the right to dissolve the lower house only when the lower house passed a no confidence vote against the cabinet, the lower house failed to pass the new year budget bill within the legal deadline, or the lower house refused to ratify a treaty.

7) The constitutional court, entrusted with a broad range of responsibilities for the constitutionality trial, was set up.

The collapse of the Second Republic, which came less than one year after it came into being, was due to the 1960 coup de' tat. It was not because any fault in the system.

## (3) Form of Government of the Third Republic

The military government, which was set up after a successful coup de'tat on May 16, 1961, introduced the so-called Supreme Council for National Reconstruction, which monopolized all the powers of the state. The Supreme Council replaced the National Assembly, and formed the cabinet, which reported to the Supreme Council. Even the

head of the judiciary and the justices of the Supreme Court were appointed by the President as proposed by the Supreme Council.<sup>3)</sup>

Two years following the coup de'tat, the Constitution was amended again in 1962. The amended Constitution brought in a government which was quite similar with the presidential system of the United States. But, the form of government had some features of the parliamentary system. Therefore, the form of government at that time was a slightly modified presidential system. The third amendment to the Constitution in 1969 paved the way for the third re-election of the President, but it further strengthened the parliamentary cabinet system features of the Constitution by allowing the Prime Minister, the state council members (the cabinet members) to concurrently serve as the National Assemblymen, while weakening the features of the presidential system.

**Striking features of the Constitution included:**

1) The President was given the right to exercise the state emergency authority, the emergency order and emergency financial economic orders.

2) The President was allowed to become the head of a political party, while politicians needed a political party's support for running for the National Assembly and they lose their national assemblymanship in case they change their political party affiliations or they leave a political party.

This way, the 1969 amendment to the Constitution strengthened the presidential grip of the legislature.

**(4) Form of Government of the Fourth Republic**

The government system brought about by the 1972-amended Constitution, the so-called Constitution of Revitalizing Reform or Yushin, made the status and authority of the President strongest in the history of Korean Constitution. It was a most controversial and abnormal constitution.

**Distinctive features of the Constitution included the following:**

1) The president, the head of the state and the chief of the Executive Branch, was elected by the members of the National Conference for Unification for a six-year term. The President was not to blame for whatever he has done during his tenure, except for the case of impeachment.

2) The President was given the power to dissolve the national assembly.

3) The President was able to hand-pick one third of the National Assemblymen by sending the names to the National Conference for Unification.

4) The President had the right to declare preventive emergency measures by law in addition to the traditional state emergency authority.

5) The President was able to call a national referendum for an important state policy. Under the Constitution, it was possible to amend the Constitution only through a national referendum.

**(5) Form of Government of the Fifth Republic**

The 1980 Constitution of the Chun Doo-hwan government brought in a presidential system which had some features of the parliamentary cabinet system. Therefore, there was a diversity of opinions among constitutional scholars about the form of government.<sup>4)</sup>

The Constitution of the Fifth Republic was amended in 1987 and the admendment introduced a direct presidential election system.

**Special features of the 1980 Constitution include:**

1) The President, who serves as the head of the state and the Chief Executive for one term of seven years, is elected indirectly and is immune from punishment for whatever he does during his term of office except for the case he is impeached by the National Assembly.

2) The President appoints the Prime Minister with the consent of the National Assembly and he forms the State Council (cabinet) by appointing cabinet ministers at the proposal of the Prime Minister. But, the State Council is no more than a counselling or consultative organ for the President.

3) The State Council members (cabinet ministers) were allowed to concurrently serve as the National Assemblymen.

4) The National Assembly has the authority to dismiss the Prime Minister and cabinet ministers on an individual basis. On the other hand, the President has the right to dissolve the National Assembly.

5) The President, the Prime Minister and other cabinet ministers have the right to submit law bills to the National Assembly and speak at National Assembly sessions. The President has the right to veto a national assembly-approved bill.

6) The President has the right to declare the national state of emergency and to propose an amendment to the Constitution and to refer important national poicy matters to a national referendum.

7) The President appoints the Chief of the Judiciary (or the Chief of the Supreme Court) with the consent of the National Assembly and appoints the Justices of the Supreme Court at the suggestion of the chief of the judiciary.

8) The President can hand-pick one third of the members of the Constitutional Commission which studies and makes judgement on constitutionality of laws, tries impeachment cases, studies the constitutionality of political parties and orders the

dissolution of political parties which are found to be against the Constitution.

#### (6) Form of Government of the Sixth Republic

Emergency rights of the President were removed from the Constitution when it was amended in 1987. The presidential right to dissolve the National Assembly was also removed from the Constitution when the 1980 Constitution was amended to make the current Constitution in 1987. Other changes made when the 1980 Constitution was revised included strengthening the rights of the National Assembly and the independence of the Judiciary. Thus, the current Constitution has introduced measures of ensuring the distribution of power and strengthening the check-and-balance function of the three branches of the state. Despite these changes, however, it can hardly be said that the Constitution stipulates a presidential system as much as the Constitution of the United States, since it still retains aspects of the parliamentary cabinet system.<sup>9)</sup>

#### **Main Features of the current Constitution include:**

- 1) The President, who is elected by the people directly, serves for one term only.
- 2) The President does not have the right to dissolve the National Assembly.
- 3) The National Assembly has the right to investigate and inspect the state affairs.
- 4) The Constitutional Court tries constitutionality. The President appoints the chief of the Constitutional Court from among the judges of the Constitutional Court with the consent of the National Assembly. Although the nine (9) judges of the Constitutional Court are appointed by the President, the National Assembly and the Chief of the Supreme Court, who is the head of the judiciary, have the right to elect or nominate three (3) Constitutional Court judges each.
- 5) The President is elected by the relative majority representative election system. If more than two persons receive the largest number of votes, the National Assembly elects the President by a majority vote in the presence of more than a half of National Assembly members.

## **2. New Form of Government for Internationalization**

### (1) The Era of Civilian Government

The era of a civilian government began on 25 February 1993 as president-elect Kim Young-sam assumed the presidency after winning the presidential election held on 18 December 1992. The civilian government put an end to the 30-year-long military rule, which had continued ever since a military junta grabbed the power by a coup d'état on 16 May 1961.

The rule of the civilian government has reached the stage where Korea can

democratize not only its political system but also the process of making and implementing important national policies as key positions of the government are staffed by civilians who believe in the democracy.

President Kim Young-sam disclosed his private assets/properties upon assuming the presidency. He also declared that he would not collect political funds from entrepreneurs. The reforms undertaken after the inauguration of President Kim Young-sam's civilian government include the eradication of military graft cases, the use of real names in banking and transactions of real estates, the discontinuation of collection slush funds by the presidential office, and revision of the election law to ensure the prevention of corruption in various levels of election. But, it must be noted that there are also criticisms against what the Kim Young-sam government is doing. Some say that President Kim is leading the reform program in a dictatorial manner, making other politicians and government officials powerless and giving the impression that a new authoritarianism has emerged.<sup>6)</sup>

President Kim has been making strenuous efforts to realize a small government by reorganizing the government structure and reducing much of the government bureaucracy. President Kim also initiated a national movement called the globalization (Segyehwa) campaign.

## (2) Structure of the Civilian Government

Until the inauguration of President Kim Young-sam's government, the government was composed of two "won" (the Economic Planning Board and the Board of National Unification), 14 ministries (the Ministry of Foreign Affairs, the Ministry of Home Affairs, the Ministry of Finance, the Ministry of Justice, the Ministry of National Defense, the Ministry of Education; the Ministry of Agriculture, Forestry and Fisheries; the Ministry of Commerce, Industry and Resources; the Ministry of Construction, the Ministry of Health and Social Affairs, the Ministry of Labor, the Ministry of Communications, the Ministry of Culture and Sports and the Ministry of Transportation), six "cho" (the Ministry of Government Affairs, the Ministry of Science and Technology, the Ministry of Environment, the Ministry of Information, the Ministry of Legislation, the Agency for Patriots and Veterans), 16 "chong" (the Office of National Taxation, the Office of Customs, the Office of Supply, the Office of Statistics, the Office of Meteorology, the Office of National Police, the Office of Prosecutors, the Office of Military Manpower Administration, the Office of Rural Development, the Industrial Advancement Administration, the Office of Forestry, the Office of National Fisheries Administration, the Office of National Railroads, the Korea Maritime and Port Administration, and the Office of Patent Administration) and two external bureaus (the Cultural Property Preservation Bureau and the Bureau of

Waterworks). The President Kim Young-sam government announced the reorganization of the government structure as of 3 December 1994 and had the reform plan approved by the National Assembly on 23 December 1994.

Main features of the government reorganization, which was reportedly designed to "expedite the process of globalization," were as follows:

- The Economic Planning Board and the Ministry of Finance were merged into the Ministry of Finance and Economy.

- The Ministry of Construction and the Ministry of Transportation were combined into the Ministry of Construction and Transportation:

- The Ministry of Commerce, Industry and Resources was renamed to Ministry of Commerce and Industry.

- The Ministry of Communications got a new name of the Ministry of Information and Communications:

- The Ministry of Health and Social Affairs was renamed to the Ministry of Health and Welfare:

- The Korean name of the Ministry of Environment was up-graded to "pu", a full-fledged ministry.

After the reorganization, the number of ministries/offices of the government was reduced from 39 to 37.

As part of the reorganization, the coordinating role of the Prime Minister was strengthened by providing the Chief of the Administrative Coordination Office, under the jurisdiction of the Prime Minister, with the authority to chair the meetings of Vice Ministers. The evaluation function, which previously belonged to the Economic Planning Board, was transferred to the Office of the Prime Minister. The Fair Trade Commission, which used to be part of the Economic Planning Board, was also transferred to the Office of the Prime Minister.

Arrangements were made for the Chairman of the Fair Trade Commission to attend the Cabinet meetings and the meetings of the Vice Ministers. The Examination Bureau of the Prime Minister's Office was expanded to Examination Bureau I and Examination Bureau II, while two section chief-level positions for law-making officers were newly created in the Office of Prime Minister.

The reorganization brought a decline in the number of senior government officials. Cut off by the reorganization were two minister positions, 3 vice minister positions, 4 assistant minister's positions, and 23 director-general positions.

More than 1,000 middle-level officials were reshuffled by the reorganization which was intended to make the government smaller but more efficient. The reorganization deserves a high praise since it was an effort to improve the efficiency of the government.

Under the presidential system, the President can run the government at his own discretion. In order to prevent the possibility, therefore, certain ways should be taken to strengthen the coordinating role of the Prime Minister so the Prime Minister can literally fulfill his responsibilities as the second man of the Executive Branch of the state.

The form of the government, which should carry out the globalization drive, should also be equipped with the expertise and capability to cope with all the problems Korea may encounter in its efforts for globalization.

### **III. Korea's System of Prime Minister**

#### **1. Historical Background of the Prime Minister System**

It has a special historical background that Korea has the system of the Prime Minister under the presidential government system. The Prime Minister system came into being as a result of a political compromise between the presidential responsibility system and the parliamentary cabinet system when Korea's first Constitution was made.

The history of the Prime Minister system dates back to the early days of Chosun Dynasty. In 1400, the Chosun Kingdom abolished the Topyonguisasi which was the highest civil servant position at that time and instead established the Uijongbu (the Cabinet or the State Council) headed by Youichong, an equivalent of today's Prime Minister, who was the highest ranking official empowered to control all civil servants. The Youichong system existed until the end of Chosun Dynasty. After the Kabo reform, the title of the highest civil servant position was changed to Uijong Taeshin (Great Minister of the State Council) and the Naekak Chongni Taeshin (Prime Minister of the Cabinet).

Later, the Prime Ministership began to exist from the days of Korea's provisional government in exile while Korea was under the Japanese occupation.<sup>7)</sup>

The provisional government, established by the Central Conference of All Russia Koreans (Chonro Hangjok Chungang Chonghoe), was led by President Sohn Byung-hi, Vice President Park Yong-hyo and Prime Minister Syngman Rhee. The Koreans Provisional Government (Chosun Kukmin Imsi Chongbu) was headed by President Sohn Byung-hee (Chong Doryong), Deputy President Park Yong-hyo (Pu Doryong) and Cabinet Prime Minister Syngman Rhee. The Hansong provisional government, set up in 1919 in Korea, had Syngman Rhee as President and Lee Dong-hwi as Prime Minister. The government of the Republic of Korea, established in the Kiho area (central part of Korea) around that time, had Sohn Byung-hi as its President and Syngman Rhee as its Prime Minister.

The provisional government formed in China after combining the two provisional governments in Korea and China had President Syngman Rhee and Prime Minister Lee Dong-hui. The provisional government continued to exist until Korea was liberated from the Japanese occupation in 1945. The title of President of this provisional government was originally Chip Jong Kwan Chongjae. It became President as Syngman Rhee called his designation as President in his international activities and correspondence.<sup>8)</sup>

In March 1950, Suh Sang-il, Chairman of the Constitution Drafting Committee, intended to prepare a draft Constitution for a cabinet responsibility system, but encountered strong opposition from Syngman Rhee, who was then the Speaker of the National Assembly. Rhee advocated the presidential system. On 23 June 1950, therefore, a constitution of the presidential responsibility system was adopted.<sup>9)</sup>

The Constitution stipulated that the Prime Minister shall be appointed by the President with the consent of the National Assembly. The roles of the Prime Minister included providing assistance to the President and assuming the vice speakership of the National Assembly and directing and supervising the government ministries under the instruction of the President.

In 1952, the Constitution was amended for the first time. The amendment stipulated that cabinet ministers should be appointed by the President as recommended by the Prime Minister. Thus, the Constitution came a step closer to the parliamentary cabinet system. However, the office of Prime Minister was abolished when the Constitution was amended again in 1954.

In 1960, the Constitution was amended again with the establishment of the second Republic. The Constitution upheld the classical parliamentary cabinet system, enabling the Prime Minister to grab the practical power of the Executive Branch of the government. However, the parliamentary cabinet system survived only for a short while as the government was toppled by the military coup de'tat staged on 16 May 1961.

The Constitution, which was adopted in 1962 following the coup de'tat, introduced a government system considerably close to that of a presidential system, but it revived the position of the Prime Minister. Under the Constitution, the President was able to appoint the Prime Minister without the consent of the National Assembly. The functions of the Prime Minister included:

- assisting the President,
- assuming the vice chairman of the State Council, and
- recommending the appointment and removal of cabinet ministers to the President.

Therefore, the Prime Minister at the time was something in between the Secretary of State of the presidential system and the Premier of the parliamentary cabinet system.<sup>10)</sup>

As a result, the presidential system retains up to now some features of the parliamentary cabinet system. Hence, much confusion over the form of the government.

## **2. Legal Status and Responsibilities of Prime Minister**

### (1) Competence of Prime Minister under the Constitution

#### 1) Status of Prime Minister as an Aide to the President

The Prime Minister's status is different from that of cabinet ministers in that the Prime Minister has the duty of assisting the President. The Prime Minister controls all ministers by order of the President (Article 82 (2) of the Constitution) and countersigns all the President's documents (Article 82 of the Constitution).

#### 2) Status of the Prime Minister as No. 2 of the Executive Branch

The Prime Minister enjoys the status of the second person after the President in terms of seniority in the Executive Branch. In short, the Prime Minister acts as the President in case of the absence of the Chief Executive (due to death or accident) (Article 71 of the Constitution), serves as the Deputy Chairman of the State Council (Cabinet) which is the top deliberation organization of the Executive Branch (Article 88 (3) of the Constitution), and has the right to recommend the appointment (Article 87 (1) and Article 94 of the Constitution) and removal of Cabinet ministers (Article 87 (3) of the Constitution).

#### 3) Status of the Office of Prime Minister as the Second Highest Office of the Executive Branch

The Prime Minister has the status of the second highest office in the Executive Branch, who directs and supervises chiefs of all the central administrative organizations by order of the President. (Article 86 (2) of the Constitution). In this capacity, the Prime Minister can stop or cancel the order or decision made by a head of central administrative office such as a ministry if it is regarded to be wrong or against the law (Article 15 of the Law of the Administrative Organization).

#### 4) Prime Minister's Right to Issue Orders

The Prime Minister has the right to issue Prime Minister's orders in accordance with law or by the President's proxy (Article 95 of the Constitution). In the narrowest sense, this is a right to legislate administrative laws. The orders which can be issued by the Prime Minister include:

- a delegated order under a law or a presidential decree;
- an order issued by the Prime Minister's authority, and
- administrative orders which take effect only within the administrative offices/organizations.

There is no difference in terms of legal validity between the Prime Minister's orders and the orders issued by ministers. But, the Prime minister retains the right to have a minister's order revised with the approval of the President if the order is regarded as wrong or against the law.

This right is part of the Prime Minister's supervisory competence (Article 15 of the Administrative Organization Law).

#### 5) Prime Minister's Right to Attend and Participate in National Assembly Sessions

The Prime Minister can attend a plenary session or a committee meeting of the National Assembly and report on state affairs, express his opinions or answer questions. Besides, the Prime Minister is required to attend a National Assembly meeting and answer questions if there is such a request from the National Assembly or a National Assembly Committee. But he can send a cabinet minister in his place for participation and answering questions (Article 62 of the Constitution).

#### (2) Responsibilities of Prime Minister

The Prime Minister assumes political, legal and representative responsibilities for the duties he performs. The Prime Minister should resign if the National Assembly recommends to the President the removal of the Prime Minister for his political responsibilities and the President accepts the recommendation (Article 63 of the Constitution). And, if the National Assembly passes a motion for the impeachment of the Prime Minister for his legal responsibilities, he should be suspended from exercising his power until the impeachment has been adjudicated by the Constitution Court (Article 65 of the Constitution).

Also, the Prime Minister shall be removed from the public duties and prohibited from assuming any public duties for five years, if the Constitution Court adjudicates the impeachment of the Prime Minister. Also, the Prime Minister shall not be exempted from civil or criminal liability (Article 65 (4) of the Constitution).<sup>11)</sup>

### 3. Political Position of Prime Minister

The legal status of the Prime Minister shows that he is the second highest in the hierarchy of the Executive Branch under the current Constitution of the presidential system. But, the practical status of the Prime Minister shows much discrepancy from his legal status.

One of the weakest points of the government organization under the Constitution is that the President can exercise a great deal of rights but is exempted from liability, while the Prime Minister does exercise limited legal right but is subject to much civil or criminal liability. This inconsistency between the right and the liability of the Prime

Minister leads the President to run the state alone.<sup>12)</sup>

The inconsistency between the legal status and the practical political status of the Prime Minister attests to the fact that there is no rule of law in Korea, although Korea is a democracy.

(1) Prime Minister's Duties to Control and Coordinate the Executive Ministries

Under the present Constitution, the Prime Minister has the right to control and coordinate all Executive Ministries. But he is under much restriction in exercising the rights because of the following reasons<sup>13)</sup>:

1) The ministries are of broad diversity in terms of specialization. The Prime Minister and his aides are not equipped with adequate specialist knowledge to deal with such diverse areas. Because of this, there is the tendency that the Prime Minister and officials working for him do not enjoy adequate trust from his immediate boss or subordinates.

2) In reality, the Ministers are appointed or removed by the President regardless of recommendations of the Prime Minister. This tendency makes the Ministers to be closer and loyal to the President, and this naturally leads the Ministers to neglect the Prime Minister. It is also true, however, that if the Prime Minister enjoys much confidence of the President, the Ministers tend to become more obedient to the Prime Minister. It is important, therefore, that the Prime Minister receives much trust from the President.

3) The Executive Ministers are subject to orders from the Prime Minister (Article 86 (2) of the Constitution: the legal status of the Prime Minister) as well as the President (Article 29 (1) of the Law of the Administrative Organization). It is confusing for the ministers and chiefs of other offices of the Executive Branch. Although the ministers and office chiefs have to follow instructions from both the Prime Minister and the President, there is the tendency that they listen more to the President who has the power to appoint or remove them.

4) Day-to-day practices show that presidential aides in Chongwadae directly deal with concerned ministers and contact them without the knowledge of the Prime Minister. This practice leads to the negligence of the Prime Minister by the Ministers.

5) There is the tendency that the ministries are not serious enough in implementing the ordinances of the Prime Minister, although the Prime Minister has the power to issue them. (Article 95 of the Constitution). This is mainly due to the fact that each Executive Ministry perceives itself as an independent organization of the Administration.

6) The President has the power to appoint or dismiss the Prime Minister. Therefore, the Prime Minister can hardly perform his legal duties as he wishes or believes,

because he is not sure whether what he intends to do will please or displease the President.

## (2) Review of Past Prime Ministers and Their Syndromes

On 22 April 1994, former Prime Minister Lee Hoe-chang was removed. Many view that Lee resigned because he disagreed with the President over certain policy matters. It seems, however, that the resignation was actually due to a discrepancy between the rule of human being and the rule of law and between the political power and the constitutional spirit.

The system of Prime Minister was introduced in Korea as a means of checking the power of the President under the presidential government system, and it has served as a stumbling block in the Prime Minister's performing his duties.

Up to now, a total of 33 Prime Ministers were appointed, but most of them served for short period of time. The short-survived Prime Ministers can be classified as follows:

1) The first group is those who were removed from or left the post of Prime Minister because of the disruption of the constitutional government or a sudden change in the form of government. They include Pyun Young-tae, who had to resign with the abolishment of the Prime Ministership, John M. Chang, who lost the Premiership after the 1961 military coup led by Gen. Park Chung-hee, Chang Do-young and Song Yo-chan who served as the Prime Minister of the Cabinet of the Park Chung-hee military government and Shin Hyun-hwak and Park Choong-hoon who served as Prime Minister and Acting Prime Minister, respectively, following the military coup led by Chun Doo-hwan.

2) The second group is those who served as Acting Prime Minister because the National Assembly refused to concur their appointment, mainly due to the discord between the President and the National Assembly. They include: Lee Yoon-yong and Huh Chung of the First Republic of President Syngman Rhee.

3) The third group is those who resigned as the Prime Minister because of their discord with the President. They are the first Prime Minister Lee Pom-sok of the Syngman Rhee government, Choi Doo-sun of the third Republic, the latest case being Lee Hoe Chang of the Kim young-sam government.

4) The fourth and last group is those Prime Ministers who were removed from or left the government service as a means of soothing the general public for major mishap or a major government falt. They include Chang Taek-sang, Paik Doo-jin, Yu Chang-soon and Noh Jae-bong, prior to the civilian government and Hwang In-sung and Lee Young-duk of the civilian government of President Kim Young-sam. Former Prime Minister Hwang In-sung was removed in connection with the public outcry

against the government decision to take part in the Uruguay Round and former Prime Minister Lee Yong-duk resigned after the collapse of the Songsu Bridge of the Han River in Seoul and the graft scandal involving tax officials of the Incheon City Government.

Thus, the Prime Ministers, who failed to perform their duties properly, have contributed to the fall of the prestige of the Constitution and laws. They also encouraged the abuse of powers by the President and his aides in the Presidential Office (Chongwadae).

The Prime Minister should lead the Executive Ministries with full understanding of the philosophy and thoughts of the President, while improving the efficiency of the Executive Ministries. If they do perform their duties this way, the Prime Ministers would have been able to obtain the confidence of the President and fulfill their legal duties.

#### **IV. Removal of Disharmony/Conflicts in the Executive Branch**

Korea is in the middle of the democratization process. It is likely, therefore, that there would be more conflicts and enmities among the units of the government administration. It is very important that all Koreans are united as a community having a common fate and render support and cooperation to the civilian government in its infancy. For the realization of the harmonious development, factors causing conflicts and enmities among the Executive Offices should be removed through compromise and negotiations and by the rule of law and the virtue of leadership.

##### **1. Theoretical Background of Disharmony and its Negotiated Control**

In human society, relations of conflict and enmity develop between individuals or organizations in their struggles to protect their interests or to defend their arguments.

There are two types of conflicts and enmities --- beneficial and harmful ones. Efforts should be made to accommodate the beneficial conflicts and enmities, while relating or removing the harmful ones. One of the methods of doing this is what is called the negotiated control. Control and removal of conflicts is very important and, therefore, those, who are good at easing and removing them through dialogue or negotiation, are considered to be "capable persons".

###### **(1) Control of Disharmony/Conflict**

###### **1) Concept of Disharmony/Conflict**

Disharmony/conflict means the confronting or enmity relations between individuals

or between organizations over their interests.

**There are two types of disharmony/conflict. They are :<sup>14)</sup>**

[1] a kind of personal dilemma due to two reacting tendencies existing within a person. They cannot co-exist.

[2] a kind of disharmony/conflict taking place between two or more social units. The social units include individuals and groups/organizations.

**This paper deals with the latter. The definition of such a disharmony /conflict can be described as follows:**

[1] Disharmony/conflict is a phenomenon taking place between two or more parties concerned.

[2] Disharmony/conflict is a process of psychological confrontation and dynamic enmity between two parties.

**Conflict is formed through a set of progressing phases:**

The set of phases is:

(a) the phase where the circumstances encourage a conflict to form.

(b) the phase where the circumstances that encourage a conflict to form are recognized.

(c) the phase where the concerned parties begin to feel tension, anxiety and enmity due to the formation of the circumstances creating a conflict.

(d) the phase where the concerned parties show their confronting and enmity actions.

(e) the phase where the conflict leads to certain results.

The series of phases do not necessarily continue until the end. There are times the series are interrupted while progressing.

[3] A conflict could be a patent antagonistic action or a latent one.

[4] The antagonistic patent actions range from raising a light question to causing an extremely devastating damage to the other party.

[5] There are two kinds of conflicts - the ones beneficial to an organization and the other harmful. The former are called the cooperating function and the latter the opposing function. However, the two are not always distinguishable as they change their positions with the passage of time.

2) Removal of Disharmony/Conflict

Disharmony or conflict which is beneficial or helpful in promoting cooperation should be sought and fostered for the realization of a given objective, and the disharmony or conflict which is harmful or brings adverse effects should be removed by using the following methods: <sup>15)</sup>

[1] Problem Solving

This method is solving the problem through contacts between the parties involved. This method is effective only when the parties intend to solve the problem through mutual cooperation.

[2] Presentation of a Superordinate Goal

The parties involved present a superordinate goal which both parties are seeking and ease the conflicting situation.

[3] Expansion of Resources

This method is used in solving the conflict due to competition for scarce resources. But, it is often the case that there is insufficiency of resources and it is not always possible to satisfy the concerned parties by increasing the resources.

[4] Avoidance

This is a short-term method of easing the conflict-- such as postponing or avoiding the decision making because of the fear that if a decision is made, it could cause a conflict. This is not an effective method of removing the disharmony/conflict. This method is used in case the involved parties are neither cooperative to each other nor express their positions clearly.

[5] Smoothing

This is a kind of accommodation because one party does not express its position and instead accepts the position of the other party.

[6] Compromise

This is a method lying between cooperation and forcing or between competition and accommodation. In other words, the both parties involved make partial concessions and seek a compromise. There are two methods, namely bargaining and third party arbitration.

[7] Order from the Superior

This is a method of solving a conflict existing between two subordinate parties by the superior(s) by issuing an order by using his official authority.

[8] Attitudinal Change by the Parties Involved

This is a method of preventing conflicts by changing human variables of those who are likely to cause conflicts or who are actually cause troubles. Education/training is used for this purpose.

[9] Dominating

This is an uncooperative and self-centered method. One party involved in the conflict destroys the other party.

(2) Managed Negotiation

Negotiation is one of the important means of resolving conflicts in human relations

and it is one of indispensable elements for the human life.

### 1) Concept of Negotiation

Negotiation is a decision-making process among several parties. It is a dynamic process of selecting one of the conservative alternatives which can satisfy all of the concerned parties. In English, negotiation is called "bargaining" or "negotiation". Bargaining is used in commercial transactions, while negotiation is used for solution of conflicts between social units, such as public organizations, groups and states.

Negotiation begins from an attempt to protect interests. Viewed this way, negotiation is an open process between individuals, organizations or states to change the combination of common but contradictory interests.

Explicit confrontation or the exchange of suggestions is a negotiation in a narrow sense, and tacit bargaining and other actions to control conflicts are bargaining in a broad sense. Tacit bargaining is an attempt to change the intention of the other party by disclosing certain information in an attempt to influence the other party to change his intention.

### 2) How to Negotiate

[1] A party involved in negotiation should review several negotiable conditions and present only a few of them to the other party so the latter can choose one of them with a "yes-or-no" answer. There should be no room for the other party to have any other choice.

[2] At the negotiation table, no one should use any emotional language. Polite and gentle expressions should be used to make the atmosphere calm and to prevent any emotional confrontation in the process of negotiation.

[3] Negotiators should not try to produce any quick result. Otherwise, the negotiation can collapse because other party does not comprehend the suggestion presented on the table.

[4] Sincere attitude toward the negotiation and good preparation before going to the negotiation table and making a positive suggestion are very important. Any quick negative answer or opposition for the sake of opposition are the last things to take in the negotiation process. Suspicions or reluctant attitudes should be avoided. Efforts should be made to make alternative suggestions rather than making opposing suggestions.

[5] Critical approaches are not desirable at the negotiation table. It should always be argued that the negotiated settlement would benefit both parties involved. Losses, which will incur when the negotiation breaks down, should not be emphasized.

[6] The negotiation party should check whether the other party understands his/her suggestion correctly, while proceeding the negotiation. He or she should make efforts to help the other party understand the points presented.

[7] When a negotiation succeeds or fails, it is good to find out what has caused the success or the failure.

[8] The parties involved in negotiation should keep decency and integrity so there is mutual respect.

[9] Arranging for a person the other party respects to go to the negotiation table is a desirable approach.

**Royce Coffin presents the following as the principles of negotiation :<sup>16)</sup>**

[1] Pay much attention to the demands and concerns of the other party.

[2] Present a slightly bigger demand onto the negotiation table because, when the negotiation succeeds, it will come along with mutual compromises/concessions.

[3] Negotiating parties should maintain calm and composure, never showing displeasure or hostility.

[4] Don't change the objective of the negotiation while proceeding the negotiation. If necessary, you may make concessions, compensations or other compromises.

[5] Try to have enough time to think over before going to the negotiation table.

[6] Don't underestimate the other party even if he seems weaker than you.

[7] Don't hasten the negotiation, remembering that everyone has his limitation.

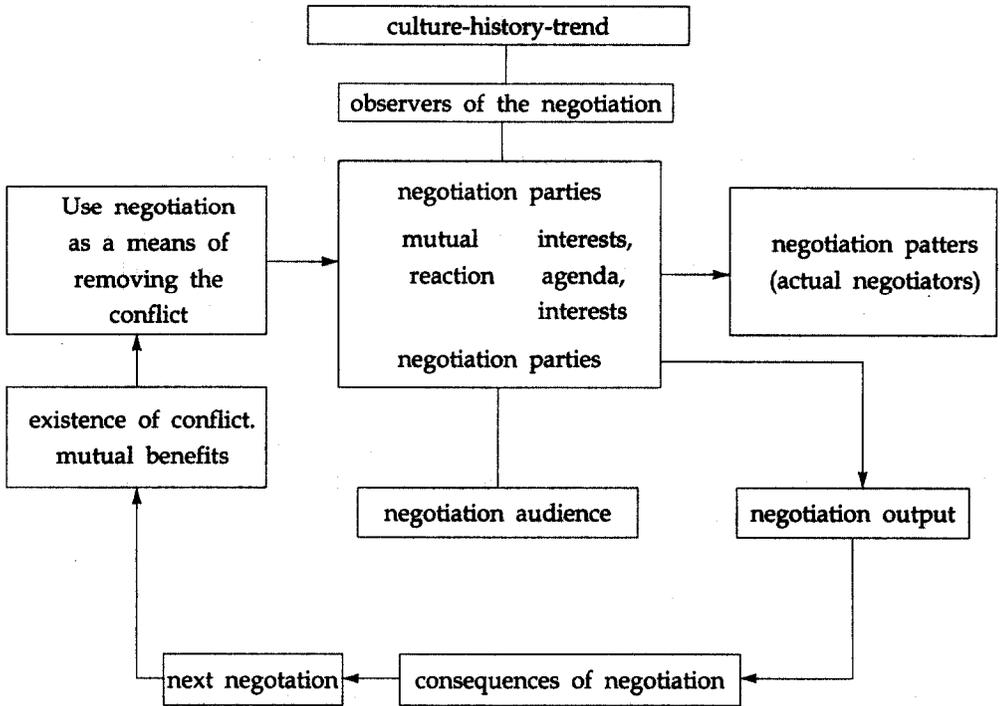
[8] Wait and listen to the other party patiently, even if he argues his points one-sidedly.

[9] Recognize the other party's ability and knowledge.

### 3) Diagram of Negotiation Structure

Negotiating parties have their own rules, regulations and codes and these control the negotiators on the negotiation table and affect the process and consequences of the negotiation. Therefore, it is necessary to clearly grasp the environment of the negotiation beforehand. The environment also affects the negotiation very much. The following diagram <figure 1>, based on the negotiation environment structure, illustrates the process of negotiation which was described above : <sup>17)</sup>

<Figure 1>



As the above illustration shows, there are many social groups involved in the process of negotiation between the two parties willing to resolve their dispute or conflict of interest. There is the tendency to place the focus on the two directly involved parties, ignoring the other parties surrounding the two.

It is always useful for the success of negotiation to take into consideration the overall environment of the negotiation--in other words, not oly the directly involved parties but all other groups related to the conflict/dispute. But, care should be exercised not to lose the sight of the interests, rights, and power influence of the directly involved two parties which are beneath the surface.

For the most imporant aspect in the negotiation is the removal of disharmony or solution of the conflict/dispute between the directly involved two parties.

Negotiation is a process of mutual reactions. Parties involved in the negotiation are more than two. Negotiation is an effort to coordinate a socially meaningful dispute of

interests. Therefore, negotiation is regarded as a phenomenon of social relation.

It must be pointed out that the environment of a negotiation encompasses not only the two parties directly involved in the negotiation process but also those who will be directly or indirectly affected by the outcome of the negotiation and those who observe the negotiation.

## **2. Reality of the Rule of Law and Removal of Disharmony/Conflict**

The legalism is the foundation of democracy and means the rule of law instead of the rule of the human being or the rule of power. The legalism respects and promotes objectivity instead of subjectivity or prejudice. Realization of legalism is essential for the solution of disharmony or conflict.

### **(1) Essence of Legalism**

Legalism means that when the state restricts the rights and freedom of the people or imposes duties on an individual or an organization, it should always be based on a law made by the legislature (the National Assembly).

The academic definition of legalism (or constitutionalism) is the governance by the constitution or a law. Legalism is an essential factor for a democracy, and it means the superiority of the legislature and the rule of law, which is the expression of the people.

Historically speaking, legalism has developed as a principle of liberalism and is recognized as a fundamental of the liberal democracy along with the separation of powers. Nowadays, however, new concepts such as the practical legalism or the social law-governed state (or the social constitutional state) have emerged, and, therefore, legalism is also regarded as a fundamental of the social democracy. The realization of legalism is an essential factor for the maintenance of the social order. Therefore, there is the saying that a bad law is better than no law.

Only when the principles of the rule of law are observed and followed, democratic and procedural legitimacy exists.

In all ages, the rule of law is indispensable for the realization of a democracy. Therefore, the Constitution of the Republic of Korea is based on the rule of law. The rule of law can be realized when the following conditions are met : <sup>18)</sup>

[1] The observance of the rule of law should be written, promised, and proclaimed in the Constitution.

[2] The freedom and legal equality of the people should be guaranteed.

[3] The powers of the state should be separated and controlled.

The Constitution adopts the separation of the state powers by allocating "the power

to make laws" to the legislature, "the power to administer" to the Executive headed by the President and the law-implementing power to the judiciary. The check and balance of the powers are stipulated by laws and regulations.

[4] It should be possible to try the constitutionality of laws. Article 107 (1) of the Constitution stipulates that when the constitutionality of a law is a prerequisite to a trial, the court shall request a decision of the Constitution Court, and shall judge according to the decision thereof.

[5] The Executive Branch should not be given inclusive power to make laws.

The Constitution provides the Executive Branch with a wide-ranging power to make laws, but the power is given "within the scope specially delegated by law." (Article 75 of the Constitution) Thus, the Executive Branch is denied inclusive power to make laws.

[6] It should be possible for the Judiciary to control the legality of the works of the Executive Branch.

In its Article 107 (2), the Constitution stipulates that the Supreme Court shall have the power to make a final review of the constitutionality or legality of administrative decrees, regulations, or dispositions, when their constitutionality or legality is a prerequisite to a trial. Thus, the Constitution arranges the Judiciary to control the Administration.

[7] The exercises of power by the state should be predictable.

The people should be able to foresee the exercises of power by the government. The guarantee of predictability and the protection of trust are essential for the legal stability in a democratic society. In its Article 96, the Constitution provides that the organization and scope of function of each Executive Ministry shall be determined by law." Article 89 of the Constitution lists the matters which should be referred to the State Council for deliberation. Article 102 (3) of the Constitution stipulates: "The organization of the Supreme Court and lower courts shall be determined by law." Thus, it is somewhat possible to foresee the implementation of legal provisions. The Constitution also protects the trust of the people as shown in Article 13 of the Constitution which prohibits the prosecution of citizens for an act which does not constitute a crime under the law effective at the time it was committed and putting any citizen twice in jeopardy of punishment for the same crime.

## (2) Removal of Disharmony/Conflict through Legalism

It is desirable to make the principle of responsible politics as the foundation of a democratic government. Responsible politics means that any one holding the state power should leave the position, taking responsibility for the violation of the Constitution or a law or any fault or mistake he has committed.

As reviewed earlier in Chapter III, there is a discrepancy between the legal status and the practical position of the Prime Minister.

The present government has launched the globalization campaign in January 1995, the third year of the civilian government.

The new government structural organization, which was approved by the National Assembly on 23 December 1994, looks as if it has strengthened the coordinating power of the Prime Minister. But, nothing has been changed as far as the Prime Minister's legal status is concerned. For the success of the globalization campaign, it is felt urgent and important that the government enjoys full trust and support of the people and those at the top of the government should be trusted by those at the bottom.

A kind of synergy movement, in which all the people and all agencies/offices of the government participate, is the key to the attainment of the goal of globalization.

A government system, which will ensure the responsible politics, should be realized so it can function properly within the framework of legal rights and responsibilities. The systems of government offices/agencies should be made suitable for efficient coordination and cooperation among themselves.<sup>19)</sup>

Under the present government set-up, the State Council is the top government organization suitable for the coordination of Executive Ministries and other central offices of the government. Legally speaking, the State Council is supposed to deliberate all important Presidential policy matters. In reality, however, it is not the case. Routine disharmonious relations/conflicts between government offices/ministries are not settled through the mediation of the State Council.

In Korea, 400 or so committees are in operation at present. Their roles include coordination and conducting specialized studies of government plans/policies. They have been set up by laws, regulations and administrative decrees. Each committee is usually made up of 10 to 20 officials of related offices/agencies and non-government officials. If any dispute/conflict is not solved through direct negotiation of involved parties/offices, the case is usually referred to the committee as an official routine procedure.<sup>20)</sup>

### **3. Leadership and Removal of Political Disharmony/Conflict**

Leadership is a process of influencing the members of an organization to willingly take part in achieving the goal of the organization. The leadership has three components -- the goal, the people and the influence. Although the leadership is said to be a process of exerting influence on an organization or on an individual to achieve a given goal, the nature of the leadership varies according to the need for it, the circumstances in which it is used, and when it is mobilized. Therefore, the members

of an organization are much influenced by who is the leader. The leadership of "who" can give much influence in solving the disharmony/dispute/conflict.

The leadership referred to here is the leadership of the national leader or the Prime Minister.

#### (1) Concept of Leadership

Leadership is an important factor in achieving a goal of an organization.

Leadership plays the function of influencing the minds of the members of an organization and it can mobilize the members to work for the attainment of a goal. Leadership should be used in accordance with the conditions of the members of an organization, the circumstance where they exist, and the trend of the time.

During the 1960s and 1970s, the period of a rapid economic growth, the leadership worked very well. It encouraged the members to have the sense of a community of common fate and exert their efforts for the achievement of the goal of the community. At that time, the leader had two functions:

[1] the function of awakening the conscience of the community members by helping them know what is the problem the community is confronted with.

[2] the function of encouraging the community members to do their best to achieve the goal.

The two functions were sufficient for the successful role of the leader.

However, the two functions described above are not enough today as the country is striving to attain the national goal of globalization in this era of endless competition.

In addition, the leader should present a vision and show a convincing way of getting to the goal.

Throughout the world, it has become a tendency of reducing the scale of the government. Many countries are trying to make their governments smaller along with the efforts to internalize, globalize and open up them further.

Even a small government can sufficiently play its proper controlling role.

In a small government, the controlling function of the government can work satisfactorily, as the ruler and the ruled alike adapt themselves well to the given circumstances of the small government.

With the passage of time, a leader should be equipped with a broader or specialized knowledge and a strong will-power of determination and creativity. Otherwise, he or she may not be able to enjoy the confidence of the community members. The leader should also be equipped with the strong determination to carry out reforms, while enhancing cost-effectiveness and morality in running the community.

From his own experience and observation, the author would like to mention that a leader should be equipped with the following qualities if he is to enjoy the full trust

of community members:

[1] He should try to obtain up-to-date knowledge throughout his life, placing special emphasis on political science, economics, social and cultural subjects, management, public administration and the laws.

[2] The leader should have the determination to translate what he learns into action.

[3] The leader should try to improve himself so as to enjoy the confidence of the absolute leader.

[4] The leader should respect Korean tradition.

In the Oriental philosophy, there is a widely-accepted saying that there is only one sun. Like this, the leader should respect his immediate superior. In an organization, the second man should pay more attention to the first man than to the man next to himself.

[5] The leader should be a believer in the Confucian teaching of In (인) and the Mencius teaching of Yi (의). He should lead and rule the organization with the royal road or the rule of right/justice.

In addition, the leader should be able to adapt himself to rapidly changing circumstances. For it, he should try to improve himself constantly.

## (2) Leadership and Removal of Disharmony/Dispute/Conflict

It was pointed out in the preceding paragraphs that there is much discrepancy between the legal status and the practical status of the Prime Minister. Despite the difference, however, it is felt that the Prime Minister can enjoy much trust from the President and respect and recognition from the Executive Ministers, other central government officials and the general public, if he is equipped with much respectful leadership such as described earlier and plays suitable leading role in fulfilling his duties. Because the legal status of the Prime Minister is already the second man of the Executive Branch, he would be able to strengthen his real power up to the level of the legal status.

However, there is a weak point in the democratic system. That is the tyranny of the majority. As a proverb goes, there is the tendency that if nine of a group of ten people are one-eyed, they think that the normal two-eyed one is handicapped.

In the internationalization efforts, an atmosphere where a right minority is respected should be built up. If such an atmosphere prevails, the influence of the minority would be able to change the wrong-doing majority. The leader should have the capacity (or the leadership) of helping the right minority to influence the majority to change. The role of a leader is to bring about such a synergy effect.

One regrettable phenomenon in today's officialdom is the prevalence of the egoism at each administrative office/agency. The egoistic handling of official business is a

stumbling block to the long-term development of the government administration.

Another problem is the stubbornness of the chiefs of government offices. Although they are fully aware what is beneficial for the interest of the public or for the country, chiefs of government offices tend to stick to their arguments instead of making concessions for the sake of the country.

This has been a problem for a long time. This has discouraged the highly educated minority to lead the public in a right direction.

From this point of view, the reduction of the structures of the Executive Branch, which was announced by President Kim Young-sam on 3 December 1994, was very meaningful.

A leader should use his leadership for the sake of the country or for the entire community. The leadership should not be used for the protection of the interests of an office or an Executive Ministry. If one Ministry gives now, other Ministry would return or make concessions later on in return for what was given.

If this "give and take" practice continues among the units/offices/Ministries of the Executive Branch, the inter-ministerial disputes/conflicts/disharmony would eventually disappear, and the efficiency of the Executive Branch would improve.

## V. Conclusion

The form of the Korean government has been the presidential system except for the government of the Second Republic. However, the presidential system has had some parliamentary cabinet system elements. Therefore, it would be more correct to call the form of the Korean government as a compromised presidential system. Because of the compromised nature of the form of government, the commanding system of every Executive Ministry, which is based on the Constitution and the Law on the Administration Organization, is duplicated.

The legal status of Prime Minister is the second man of the Executive Branch after the President under the presidential system. And, the President appoints the Prime Minister with the consent of the National Assembly. It enhances the democratic justification for having the Prime Minister.

The Prime Minister assists the President and supervises, under order of the President, the Executive Ministries (Article 86 (2) of the Constitution). Under this provision, the Prime Minister can exercise the power to direct and supervise the Cabinet. Although the phrase "under order of the President" is abstract one, the Prime Minister should assist the President within the allowed limit. "Assisting the President" means that the Prime Minister should help the President make right decisions and run the country in a correct manner.

The President should also utilize the Prime Minister for the effective running of the country. Despite the provisions, however, the operation of the government shows that there is discrepancy between the legal status and the realistic position of the Prime Minister. The difference is mainly due to the fact that:

[1] Although the Prime Minister should direct and supervise the Executive Ministries, the Law on the Administration Organization (Article 29 (1)) stipulates that "the Executive Ministries are placed under the overall control of the President." Thus, the Executive Ministries are under the duplicated commands of the President and the Prime Minister. Because the right to appoint or remove the Prime Minister and Ministers is with the President, Executive Ministers tend to attach more importance to the President than to the Prime Minister.

[2] The President and the Ministers, who have absolute power within their jurisdictions, tend to make no concessions as far as their jurisdiction and power are concerned, although they are fully aware that their concessions would benefit the administration or the country as a whole. The parochialism has caused much harm.

The problem of parochialism has well been proved by the fact that when two ministries/offices are merged, the problems caused by the egoistic attitudes of the two parties disappear.

It was learned from past experiences that the Presidents exercised their absolute power in decision-making processes but seldom assumed responsibilities for the failures for which they were to blame, while the Prime Ministers were sacked for the failures for which the Presidents were to blame under the presidential system. The Prime Ministers were unable to exercise their legal rights but were forced to take responsibility for the government failures. Because of such incidents, the Prime Ministers were ridiculed as "a bullet proof Prime Minister" or "a protocol Prime Minister." The one-sided presidential power also brought a beef-up of the power of the secretarial office of the President, and there has even been the argument that there is no need for the Prime Minister. There have been frustrations on the part of the Prime Ministers or conflicts involving the Prime Minister, which have made it difficult to improve the efficiency of the Executive Branch.

The Kim Young-sam government introduced a major change in the administration organization on 3 December 1994. The organizational change was reportedly intended to realize President Kim's globalization program, which is aimed at improving the "inefficient administration culture" and at "making the government smaller."

In other words, the change in the administration organization demonstrated the intention to make the position of the Prime Minister "the second man of the Executive Branch as prescribed by law" under the presidential system. Several actions undertaken this time along with the organizational change indicates the intention.

For instance, the chief of the administrative coordination office at the Prime Minister's Office was given the new duty of chairing the meetings of the Vice Ministers. It was an attempt to further strengthen the coordinating role of the Prime Minister.

Until the change was introduced, the chief of the administrative coordination office at the Prime Minister's Office did not play the presiding role of the Vice Ministers' meetings. He had been just allowed to "attend" the meetings.

One thing which was not clear to observers was that the former Vice Minister of the Economic Planning board was made the chief of the Administrative Coordination Office at the Prime Minister's Office. Given his background, it would be quite possible that the coordination chief would still place more emphasis on economic affairs than other matters and would still wish to be transferred to the Ministry of Finance and Economy. The transfer of the Fair Trading Board to the Prime Minister's office also appeared aimed at boosting the coordinating role of the Prime Minister.

Korea was under the rule of an authoritative military regime for 30 or so years. Only with the declaration of democratization on 29 June 1987, began an era of democracy. Along with the endeavour to democratize came much disharmony/conflicts among government officials and ministries/organizations.

It is hoped, therefore, that government leaders should step up their efforts to strengthen their coordinating roles for eventual removal of the disharmonious relations/conflicts involving the Prime Minister and other Executive Branch's central offices. If much of the conflicts/disharmony are removed, the public trust in the Executive Branch and the government administration would increase. A synergy effect may follow, creating a strong sense of the community of common fate among the people.

These changes would come when the government is operated by an able leadership under the rule of law.

In this paper, the author reviewed the past trends of the government administration, attempting to find the ways of removing the disharmony/conflicts between the President and the Prime Minister under the presidential system.

When the rule of law was discussed as a means of getting rid of the disharmony/conflicts involving the Prime Minister, the author suggested the revision of relevant laws in order to clearly stipulate the legal rights and responsibilities under a government form ensuring a responsible politics. The author also discussed the theories of negotiation and leadership with a view to using them in making the government to work efficiently with its goal of globalization.

In discussing the theory of leadership, the author expressed his view that the Prime Minister

ter will receive much respect and recognition from the President, the Executive Ministries and chiefs of other central government organizations as well as the general public if he is equipped with adequate qualities and leadership.

With his leadership and qualities, the Prime Minister will be able to match his legal status with his practical status eventually, while strengthening his coordinating role in the Executive Branch.

In conclusion, the author would like to express his hope that the paper would contribute to the government endeavour for globalization.

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