

A Study on the Parliament Inspection System in Korea

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I. Introduction

The Korean system of parliamentary inspection of the administration was adopted in 1948 and used for 24 years until the 1972 revitalized constitution(Yushin Hunbup), and it was revived 16 years later in the present constitution. It is guaranteed as a unique privilege of the assembly by the Constitution and the National Assembly Law.

But it cannot be denied that the former parliamentary inspection system was criticized due to many problems in its performance and operation(Park and Kim, 1989). The present system also has many problems in its operation, so there is a demand for its improvement. The purpose of this paper is to present the results of a survey conducted to discover ways of improving the inspection system.

II. Analytical Survey, Summary

1. The Pollees

The group surveyed included 295 assemblymen; 67 administrators in the Secretariat of the National Assembly, legislative assistants, experts(first to third grade), and 232 administrators from the Economic Planning Board and twenty-four administrative departments(first to third grade). Of the 594 surveys sent out, 215(36.2%) were returned.

2. Profile of Respondents

The respondents can be divided into 72 legislators and 143 officials. Among the assemblymen 20 are from the ruling party and 52 are from the opposition parties, among the officials 47 are legislative, 96 are administrative. In terms of age, 87 are below 50 years of age, and 128 are 50 years or older.

3. Analytic Method

The 50-years age division was selected as a means of determining whether the respondents are old enough to have been aware of the events of 4.19. The other divisions(between legislators and administrators and between ruling and opposition parties) are to reflect possible political bias. So, the two criteria are basically used to find any significant correlationship between their positions and responses.

III. Analyzing Surveys on Ways of Improving the System.

1. Recognizing the Necessity for Improving the Present System.

Concerning the recognition of parliamentary inspection of the administration, 215 respondents answered. Of these, 4.2%(or 9 people)said the present system is adequate, but 94.4%(203 people)said that there are some problems in the present system. Overall, all the respondents showed the need for systematic improvement.

2. Priorities for Improving the system of Parliamentary Inspection

Since it is obvious that an improvement of the parliamentary inspection system is called for, if the present system is to be improved, it was asked which part should reformed first. 「The submission of a request for inspection material」, and 「the period for investigation of the subject」 are the problems that proved to be addressed first. Second is 「repeated inspections」 and 「the selection of too many agencies to examine simultaneously」(the problem of picking which agencies to focus attention upon). Third is 「The process of choosing witnesses」, 「the adequate number of investigators」 and 「improved professional training of investigators」 However, among the assembly men who thought improvements are necessary, their first and second priorities were in adequate numbers of investigators and their poor quality, and process of chosing witness.

Administrative official, on the other hand, thought the submission of paper work and the investigating period, and the problem of picking which agencies to focus attention upon, are the most pressing problems. So there is wide divergence between the legislative and administrative positions.

The reasons for the assemblymen's opinions are due to their desire to know the truth and their frustration with the existing process, while reasons for the administrative official's beliefs(focusing on the selection of agencies, inspection materials, and the scope of the examination)are related to their bureaucratic situation.

3. Inspection Request Quorum

Article three of the current law [The Law of Parliamentary Inspection and Audit of Administrative Affairs] stipulates that more than 1/3 of the legislature must request an inspection of the administration before such an inspection may take place. Pollees were asked about this situation.

The result seems to be that the present requirement is suitable, since 65.6% the respondees acknowledge it as being so. But among the ruling party, 20% thought the requirement should be raised to 1/2 the legislators, while among the opposition assemblymen 28% thought it should be reduced to 1/4 or 1/5, while none of them wants to increase the quorum. Therefore, the present quorum should remain unchanged for the time being, but gradually changed to reflect the democratization of the society, to satisfy the people's right to know, and to reinforce the strength of the assembly.

4. Open or Closed Parliamentary Inspection to the Public

Article twelve of the law for parliamentary inspection states that the investigation is to be closed to the public, except under certain conditions by the investigating committee's vote. So the poll asked about this matter and respondees answered in the following manner.

Among the assemblymen, 67.3% of the opposition members stated that the process needs to be opened to the public, while among the ruling party only 20% want it opened and 50% preferred further restrictive public access. Obviously there is a marked difference of opinion on this point, depending on the respondent's position.

Considering this difference, it seems that the opposition party legislators are more actively interested in opening the process to the public, while the ruling party legislators and administrators want the assembly to retain its more passive, bureaucratic, closed, exclusive control over the process.

But the purpose of the inspection system is to give the public detailed information about governmental action, so the law certainly needs to be changed so that the system is more open.

5. Subpoenas for Absent Witnesses

In the law dealing with evidence, article six provides for the issuance of subpoenas against witnesses who fail to show up for parliamentary inspections, but these witnesses are still able to evade giving testimony due to various loopholes. This matter was also a subject of the poll.

Breaking down the response by age, it is found that 54% of those below fifty years old want the provisions tightened so that subpoenaed witnesses absolutely

must appear, while 46.1% of those over fifty are satisfied with current rules. Those under fifty seem more interested in building a practical, clear system of requiring testimony.

Among the ruling party legislators, 75% agreed with current laws but 92.3% of opposition legislators want to tighten restrictions. Once again, there is a very clear estrangement between the two camps. Meanwhile, among Administrative officials, 63.5% uphold the present system.

These results were not unexpected. They reveal that those over fifty years old, members of the ruling party, and administrators are quite conservative and exclusive due to their situation.

But laws are not fixed forever more, They must be changed to meet the needs of the time and of the people. It is absolutely the case that this law be altered out of historical necessity.

6. Countermeasures to Prevent Perjury

Article 15 of the same law maintains that when witnesses present false testimony they may be prosecuted. The assembly tried to prosecute perjurers after its 1988 inspection of the administration, but the prosecutor either treated the case as unproven or stopped the proceedings on technical grounds. So the existing law is in effective.

Polled on this point, 42.8% of the respondents want "a special investigation to discover the truth" as a counter measure to prevent false testimony; 27.9% want a exemption clause for mild punishment and 21.9% want depositions to be filed beforehand. So most responsee recognize the need for countermeasures to prevent porjury.

In particular, there was widespread support for adopting a special inspection system. Because of the false testimony given concerning the irregularities of the 5th Republic and the Kwangju uprising, such attitudes in favor of countermeasures were quite predictable.

But when the opinions of the ruling and opposition parties are compared, it is found that only 15% of the ruling party want to adopt special inspections, a small percentage compared with the 82.7% approval by the opposition. This closely matches an expectation based on the composition of contemporary Korean politics.

Among the branches of government, 38.3% of officials in the legislative body want to adopt countermeasures for preventing false testimony, while on the contrary 34.4% of administrators in the executive branch want prison sentences to be reduced and exemptions created; this is a proof of their instinct for self preservation.

During the 1988 hearings it was difficult for the assembly to realize the purpose of its inspection because of false testimony being given; therefore, adoption of a

new system of special inspection is considered necessity by the assemblymen.

7. Problem with Delayed Material Submissions

Even though materials submission requests are sent one week in advance, there are many difficulties in getting subject agencies to comply. To correct the situation, the poll asked what should be done.

Among assemblymen 45.8% want to provide for penal terms for those who fail to respond completely, while on the other hand 51.7% of government officials want flexible operation of the system.

As usual, there is remarkable disparity between the two positions. In the case of the legislators, they feel obligations to exercise their rights, while in the case of the officials, they tend to avoid compliance because they are the subjects of the very material they are preparing. But the goal is to meet the wish of the entire country to get precise substantial truth. Therefore, penal regulations should be imposed to force officials to submit materials on time unless an adequate explanation for noncompliance is given. Then a faithful attempt to submit requisite materials would result.

8. Supplementary Clerical Aids for Parliamentary Inspection

Article 6 of the law provides that the proper clerical aids, including professional expertise, should be provided to the investigation committees, but at the present time this provision is poorly implemented. The poll asked about this matter.

Of the opposition assemblymen, 42.4% want supplementary clerical aid provided by additional assemblymen's assistants, and 29.8% of the legislative officials want this aid to be provided by regular assembly employees, while the ruling party assemblymen and government officials highly supported professional expertise given by commissioned persons 55% and 56.2% respectively.

The answers reveal the positions of the answerers. Opposition assemblymen have the point of view of absolutely lacking clerical aids in their work at present, while legislative officials feel that they are limitations to their work because they need more clerical aids attached to the regular committees. Ruling party assemblymen and officials are afraid of the lack of expert knowledge by some assemblymen, too. And the ruling party assemblymen want to employ neutral professional, whose quality is well proven.

Therefore, administrative aids must be reinforced by any types of professionals: the adequate number and type of needed staff must be studied further.

9. The Role of the Board of Audit and Inspection

If the purpose of investigation is to evaluate the overall administrative perform-

ance and to gather necessary information to set the budget, the role of the Board of Audit and Inspection is closely related to the assembly's work. The present inspection system belongs to the president but the assembly wishes to assume full responsibility by integrating the board as an agency of legislative body.

The result of the poll is that 76.3% of the answerers replied that the transfer of inspection responsibilities is needed and confirmed the necessity of further study to tramper the function of the board to the legislature. So there must be some way of working our effective policies. Of the opposition assemblymen 55.8%, and of the legislative officials 53.2% indicated that the inspection power should belong to the assembly, while 41.7% of the administration officials replied the present system is adequate.

So transfer of the inspection role exercised by the board to the Legislature has entailed different perspectives. When the role of inspection exercised by the board belongs to the assembly, administrative officials are afraid of their protection being weakened.

But since the assembly represents the people's opinion, and is the only body that can restrain the administrative branch, the tasks exercised by the board should belong to the assembly.

IV. Measures for Improving Management

1. Criteria for Selecting Witness

In the 1988 inspection of the administrative affairs, too many rank and file witnesses were called, causing inefficient management of testimony. Ignoring the age and political breakdown of the respondents, 52.1% of all pollees had similar reactions: that of whatever rank, only properly selected witness should be present at the appointed time. Accordingly hereafter, witnesses should be chosen among the presently working, and they should be called only for a specific time and for specific reasons. But, it is not necessary to inform all the witness seven days in advance regardless witness' positions.

2. Problems with Live Television Broadcasting

On the question of televising the investigative hearings of high administrative officials, 41.3% of respondents wanted an edited broadcast to be aired as a special program, but 19.5% wanted a live broadcast and 27% recommended the live broadcasting as special program only. In all, 46.5% think that a live broadcast is sometimes necessary.

But among opposition legislators, 51.9% definitely believe that live broadcasting should be the general rule, while 45% of the ruling party numbers want edited special programs and only 5% want live broadcasting to be a general

principle. Government officials, at 50.3%, tend to side with the ruling party assemblymen.

These results show that the variety of opinions depends upon the political situation of the ruling party legislators and administrative officials; they hold similar views because they are on the same side and they are in the position.

But the principle of live broadcast of hearings provides the people with means of exercising their basic right to know as much as they can, except in such obvious issues as national security. However, the most reasonable and most correct attitude is to let the television stations themselves make the basic decisions on how hearings should be broadcasted.

3. Selecting the Agency for Inspection

In the 1988 inspection, too many agencies were selected for investigation, thus resulting in blame for poor efficiency.

Among the respondents, 46.1% replied that the scope of non-mandatory agency should be reduced and that random probes should be held no more frequently than every other year; 24.7% wanted to question only the central administrative agencies; and 7.4% thought that local government agencies should be investigated on the provincial level in any case.

The local government agencies seems to be excluded from the mandatory agency category, and only provincial level government should be inspected every other year.

4. Problem of Repetitive Inspections

In the 1988 parliamentary inspection, the local government was repeatedly investigated on the same issues. Without any breakdown of age or political factors, 74.9% of respondents wanted a united inspection team to manage the investigation, with the ability to achieve better coordination.

From now on, when there is an inspection, a united management effort must be applied. United inspection team approach must be further studied later on.

5. Further Directions of Inspection Practices

The survey revealed that there was a very large gap in the expectations of future inspection practices among ruling and opposition parties, legislators and administrators. Among ruling party assemblymen, 60% want to focus only on inspection of governmental policies, while 75% of opposition assemblymen want to inspect policy and politics. Once again, the two camps are in basic conflict over the aim of inspections.

Meanwhile, 84.4% of administrative officials hoped to have inspections directed against policies only. As one could have predicted, this ruling party view

is in marked contrast to the opposition opinion, which holds that the main purpose of the inspection process is to ensure political control by the legislature in order to prevent the administrative agencies from carrying out arbitrary, irrational, and corrupt policies.

V. Concluding Remarks

So far there have been many problems with the operation of the present parliamentary inspection of the administration. So a survey was circulated among assemblymen, assembly officials, and administration officials, to find what they think and to analyze ways to improve the system. There were many view points and arguments concerning the current inspection process as well as the system itself. But, one of the most important contribution of this paper is that the point made in the text are based on the direct responses from the experienced practitioners. Although there are strategic responses based on the positions they hold, we can grasp the shortages of the present inspection system and directions for improvement.

Further more, in order to execute the inspection system successfully, the current system should not be regarded as a fixed, ever changing one, but rather as one which reflects the awareness of the people, as expressed in periodical elections.

The success of the system is predicated on the recognition of correspondence between the parties, the legislature, popular opinion. Therefore, the first prerequisite for changing the system is to change people's consciousness: recovering the proper function of the Legislature and finding a good position of administrators as a servant of the people.

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