

IV GLOBAL FORUM

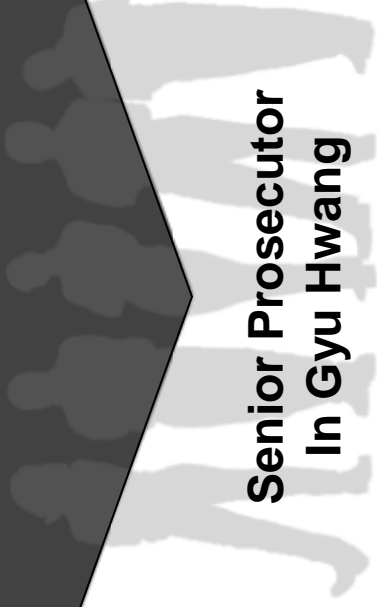


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Successful & Unsuccessful Experiences:

What We Learn as Investigators

**Senior Prosecutor
In Gyu Hwang**



Factors for successful Investigation

- Various Factors for Investigation
- Presentation will be focused on:
 - Independence of Investigation
 - Collection of Evidence

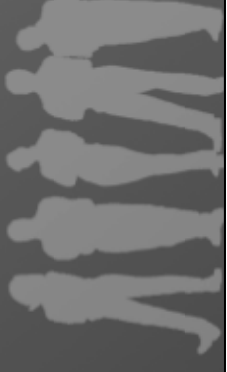
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Obstacles in Corruption Investigation

- Cultural Barrier
 - Family-oriented Tradition
 - Gift-giving Culture
- High Cost of Politics
- Unnecessary Regulations
- Distrust in Investigation Agencies

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Cause of Distrust in Prosecutors' Office (PO)

- Lack of Transparency
 - Nature of Investigation
 - Protection of Privacy and Information Access Right
- Appointment Procedure
 - Assignment of Prosecutors to Important Positions by the President
 - Influence of Political Power on Assignments
- Decision-making Procedure
 - Hierarchical Structure in Decision-making
 - Obligation of Junior Prosecutors in Obeying Supervisory Prosecutors

- **In Coordination with the Office of the President**
 - **The Office of the President plays the role of coordinator**
 - **Dispatched prosecutors “are the hot line” = act as the interlink to the PO**
 - **Unjustifiable demands and assignments from the Office of the President lead to weariness and inefficiency among prosecutors**

- **Mistakes by Prosecutors**
 - **Bad Practices of the Prosecutors**
 - **Inadequate Behavior of Family of Top-ranking Prosecutors**
 - **Incongruent and Imprecise Investigation of Corruption Cases related to High-ranking Officials**

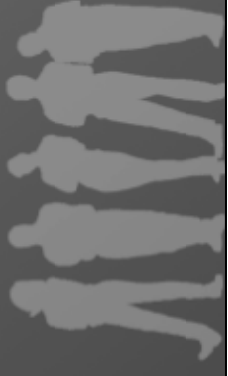
Remedies

- Enhance Transparency
 - Public Participation
 - Access to the Investigation Documents
- Democratic Decision-making
 - Mediation Measures
 - Indirect Reporting Channel to the Minister of Justice

However, the public is not satisfied with the above measures

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Remedies

- **Special Investigation Council**
 - **Four lawyers were appointed as Special Prosecutors**
 - **Special Prosecutors prosecuted those who had not been prosecuted by PO**

Prosecutors were able to realize that “what people really wanted was the independence of the prosecutors from political and economic powers.”

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Change in Circumstances

- A democratic society requires transparency and unbiased justice
- The President made a direct promise of independence to the prosecutors
 - Debate between the President and Junior Prosecutors
 - Establishment of New Personnel Council for Just and Transparent Appointments

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Strong Will of the Top Supervisors

- The Minister of Justice declared her role as a shield



“ I have tried to make sure the investigations are being carried out in a fair and straightforward way, without ulterior motive. It is important to prevent outside influence from interfering, and I think we are doing that” – Kang, Kum-sil, ex-Minister of Justice

- The invincible will of the Prosecutor General to terminate corruption-related practices



“Our Promise to strictly deal with the corruption case is as firm as ever”

– Song, Kwang-soo, ex-Prosecutor General

Investigation of Illegal Presidential Fund-raising

- **Outline of Investigation**
 - Sep 2003 : Branches of SK Group were convicted of accounting fraud
 - Oct 2003 : Lawmakers of Uri Party and Grand National Party along with presidential aides were charged with accepting illegal fund-raising from SK
 - Expansion of the case to other major conglomerates such as Samsung, Hyundai, Lotte & Hanjin
- **Prosecution**
 - Prosecution of 40 politicians including 23 incumbent lawmakers
 - Four top aides, former campaign director and his chauffeur were prosecuted.



Obstacles of Investigation

- **Punishment of Illegal Fund Providers - Entrepreneurs**
 - Assistance from business sector is required
 - Lack of proof to prosecute owners of conglomerates
 - Need to minimize negative effect on the economy
- **Limitation of Prosecution due to Prevalent Practice of Illegal Fund-raising**
 - Prevalent Practice of Illegal Fund-raising
 - Limitation to the Objectives and Priority of Investigation

- **Timetable of Political Events and Controversies**
 - **Aggravation of Political Controversy**
 - **Impeachment of the President, Parliamentary Hearing, Election of Parliamentary Members, etc.**

- **Criticism and Challenges from the Political Powers**
 - **PO : Super-power of All Powers**
 - **Threat of Reducing the Power of Investigation**

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Accomplishments

- Milestone for Clean Election Campaign
 - Effort of Renovating the Past Political Practice
 - Public Consensus on the Clean Election Campaign
- Investigation aimed at Sitting President and Economic Superpowers
 - Adherence to Principles
 - No Political Influence
- Distinguish Politics from Business
 - Problems of Business and “Insurance Policy”
 - New platform for Economic and Social Development
- Independence of PO from Political Powers
 - Personnel Committee for Assignment of Prosecutors
 - Hearing Procedure for Appointment of Prosecutor General
 - Behavioral Changes of Prosecutors

Response from the public

- **Commendation**
 - Establishment of Internet Fan Clubs
 - Recovery of Damaged Reputation
- **Criticism**
 - Unequal Punishment of Businesses
 - Exemption of Charges to Owners of Conglomerates

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Due Process

- Importance of Due Process
 - Human Rights Issues
 - Fierce Counterarguments by Suspects with Power
- Warrants
 - Arrest
 - Search and Wire-tapping
- Overnight Investigation

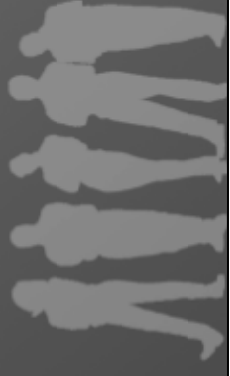
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International Cooperation

- Extradition
 - Many Exceptions Related to Political Issues
- Evidences Located out of Jurisdiction

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Protection of Whistle-Blower

- Difficulties in Collecting Corruption Evidence
 - Positive Effect of Whistle-Blowers
- Discrimination against Whistle-Blowers
 - Negative Public Opinion on Whistle-Blowers
- Role of Korean Independent Commission Against Corruption
 - Protect Whistle-Blower
 - Grant Reward

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Protection of the Investigated

- Prevent Suicides of Suspects
- Protect Privacy of Suspects

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Conclusion

Though it is not easy, securing the independence of investigation is crucial for successful investigation against corruption.

When collecting evidences, “human rights, protection of information provider and the suspect” should be taken into consideration.

International Cooperation is needed to achieve the common goal which is termination of corruption.

