

CONSTITUTIONAL COURT DECISION

Case: Dissolution of the Unified Progressive Party, Case No. 2013Hun-Dal

Petitioner: Government of the Republic of Korea
Legal Representative: Hwang Kyo-Ahn,
Minister of Justice

Represented by Prosecutors Jeong Jeom-Sik, Kim Seok-Wu, Byeon Pil-Geon, Min Gi-Hong, Lee Hee-Dong, Lee In-Geol, Jin Dong-Gyun, Choi Dae-Geon, Choi Jae-Hun, Lee Tae-Seung, Shin Dae-Gyeong, Lee Hye-Eun and Lee Jae-Man, APEX LLC (attorney in charge: Kim Dong-Yun), and Attorneys Kwon Seong and Lim Seong-Gyu

Respondent: Unified Progressive Party

Party Representative: Lee ○-Hee

Legal Counsel for the Respondent:

Law Firm of Shimin (attorneys in charge: Kim Seon-Su, Jeon Yeong-Sik, Koh Yun-Deok and Choi Yong-Geun)

Law Firm of Jihyang (attorney in charge: Kim Jin)

Law Firm of Dongan (attorney in charge: Lee Kwang-Cheol)

Law Firm of Jeongdo (attorneys in charge: Lee Han-Bon and Lee Myeong-Chun)

Law Firm of Donghwa (attorney in charge: Lee Jae-Jeong)

Law Firm of DLS (attorney in charge: Yun Yeong-Tae)

Law Firm of Jeongpyeong (attorneys in charge: Shim Jae-Hwan, Hah Ju-Hee and Kim Yu-Jeong)
Law Firm of Dasan (attorneys in charge: Kim Chil-Jun and Cho Ji-Hoon)
Law Firm of Changjo (attorneys in charge: Lee Deok-Woo and Kim Jong-Bo)
Law Firm of Duksu (attorney in charge: Lee Min-Jong)
Law Firm of Yeoneun (attorney in charge: Cho Hyeon-Joo)
Law Firm of Sangrock (attorney in charge: Cheon Nak-Bung)
Law Firm of Hansaem (attorney in charge: Lee Seok-Beom)
Attorneys Lee Jae-Hwa, Kim Ki-Deok, Kim Yeong-Joon, Jeong Jong-Jin, Jeong Yeon-Soon and Shin Yun-Kyeong

Decided: December 19, 2014

Holdings

1. The Respondent, Unified Progressive Party, is hereby dissolved.
2. The Members of the National Assembly belonging to the Respondent, Kim ○-Hee, Kim ○-Yeon, Oh ○-Yun, Lee ○-Gyu and Lee ○-Ki, are hereby forfeited of their seats in the National Assembly.

Opinion

1. Case Overview and Procedural History

A. Petition for Adjudication on the Dissolution of the Respondent

(1) The Respondent (Representative: Lee ○-Hee) is a political party founded on December 13, 2011, through a merger of the Democratic Labor Party, the Participation Party, and the Alliance for the Creation of a New Progressive Party (“**New Progressive Alliance**”), formed under the

leadership of defectors from the New Progressive Party. The Petitioner filed this Petition for Adjudication on the Dissolution of the Respondent's political party, pursuant to deliberation and resolution by the Cabinet Council Meeting, on the grounds that the Respondent's objectives and activities violate the basic democratic order, seeking the dissolution of the Respondent and the forfeiture of the Respondent members' seats in the National Assembly.

(2) The issues raised by this Petition are as follows: whether the Respondent's objectives or activities violate the basic democratic order; whether to render a decision to dissolve the Respondent; and if the Respondent is hereby dissolved, whether the seats in the National Assembly belonging to the members of the Respondent must be declared forfeited. While the objectives and activities of the Democratic Labor Party may serve as a reference to the extent that they are relevant to the Respondent's objectives and activities, the Democratic Labor Party's objectives and activities are not themselves the subject matter for review in the present case.

B. Justiciability of the Petition

When the objectives or activities of a political party violate the basic democratic order, the Government may, after deliberation by the Cabinet Council, petition the Constitutional Court to adjudicate on the dissolution of the political party. (Article 55, The Constitutional Court Act).

According to case records, the Cabinet Council duly adopted a resolution to file a petition for the dissolution of the Respondent on November 5, 2013, at a meeting presided over by the Prime Minister during the President's official visit abroad. This matter did not undergo preliminary deliberation at a meeting of the Vice Ministers.

Under Article 12 of the Government Organization Act, the President

shall convene and preside over the Cabinet Council as its Chair, and the Prime Minister shall act for the President, if the President is unable to perform his or her duties under extenuating circumstances. The President's official visit abroad constitutes an "extenuating circumstance" under which the President is temporarily unable to perform her duties (see Article 2, Subparagraph 4 of the Regulations on Administrative Proxy); therefore, the above-mentioned resolution by the Cabinet Council cannot be deemed unlawful.

Also, although Article 5, Section 1 of the Regulations on the Cabinet Council provides that a resolution submitted to the Cabinet Council shall, unless urgent, undergo deliberation at a meeting of the Vice Ministers, the Government in principle has the discretion to determine the urgency of the resolution, and the Government's determination of urgency for this resolution to file a petition for the dissolution of the Respondent, presented amidst an alleged case of rebellion involving the Respondent's members, including those in the National Assembly, cannot be concluded as constituting an unlawful abuse or overreach of its discretionary authority.

For the same reason, the petition in the present case seeking adjudication on the dissolution of a political party, filed under the above-mentioned circumstances, cannot be viewed as inequitable and thus constituting an abuse of authority to file a petition.

The petition for adjudication on the dissolution of a political party in the present case has been duly filed under the relevant statutes without procedural defect, and the Court finds the Respondent's arguments contesting this groundless.

C. Procedural History

On January 7, 2014, after the petition for adjudication on the dissolution of a political party in the present case was filed, the Respondent filed a constitutional complaint against the provisions of Article 40, Section 1 of the Constitutional Court Act that require provisions regarding civil litigation to apply *mutatis mutandis* to the procedure for adjudication on the dissolution of a political party, to which the Constitutional Court on February 27, 2014, ruled that the referenced provisions did not violate the constitutional right to trial (Case No. 2014Hun-Ma7). Consistent with this holding, the Constitutional Court proceeded with the adjudication proceedings in the present case, applying the Constitutional Court Act and the Constitutional Court Rules on Adjudication, as well as civil procedural rules to the extent not contrary to a constitutional adjudication.

The Constitutional Court heard both parties' arguments and examined evidence through two pre-hearing conferences, and eighteen hearings. Evidence examination for Petitioner's Exhibits A1 through A2907-2 and Respondent's Exhibits B1 through B908 occurred by each party stating the purpose of the evidence and the opposing party presenting opinions in response. Also, six witnesses called by the Petitioner (Kwak ○-Su, Lee ○-Hwa, Lee ○-Baek, Lee ○-Cheol, Kim ○-Hwan and Lee ○-Yun) and six witnesses called by the Respondent (Roh ○-Chan, Park ○-Soon, Kim ○-Min, Park ○-Sik, Kim ○-Sik and Kwon ○-Gil) were examined. The Court also received into evidence interrogatory responses submitted by the Chair of the National Election Commission, the Minister of Unification, the Director of the National Intelligence Service, the Chief Executive of the National Library of Korea, the Chair of the Commission for Restoration of Honor to and Compensation for Democratization Movement Activists, the Saenuri Party, and the Democratic Party.

In addition, in order to receive expert opinions about the purpose of, and the major issues in, a system of constitutional adjudication of the dissolution of a political party, a case of first impression in the Korean constitutional adjudicatory history, this Court received testimonies from the following six reference witnesses: Kim ○-Gyeom (Professor of ○○ University), Jang ○-Su (Professor of ○○ University) and Yu ○-Yeol (President of ○○ Research Institute) recommended by the Petitioner; and Jeong ○-Ho (Professor of ○○ University), Song ○-Chun (Professor of ○○ University) and Jeong ○-Hyun (Professor of ○○ University) recommended by the Respondent.

Based on duly admitted evidence, facts salient to this Court, and the legal arguments of the parties, this Court makes its fact-findings and rulings on: (i) whether the objectives and activities of the Respondent violate the basic democratic order, (ii) whether to render a decision to dissolve the Respondent, and (iii) if the Respondent is ordered to be dissolved, whether the seats in the National Assembly of the members of the Respondent must be forfeited as follows.

2. Purpose of the Judicial Dissolution of Political Parties and Grounds for Adjudicating the Dissolution of a Political Party

A. Purpose of the Judicial Dissolution of Political Parties

(1) Constitutional Democracy

(a) **The word "democracy" originated from ancient Greek, combining the words "dēmos," meaning "ordinary citizen," and "kratos," meaning "power or rule." The word meant "rule of ordinary citizens,"**

and the ancient Greek political philosophy understood it to mean "rule of majority," as opposed to a monarchical "rule of one," or an aristocratic "rule by minority." However, over a long period of Western tradition, the word "democracy" has come to mean a political system under which the poor or the uneducated could unilaterally attain their purposes by taking advantage of their numerical superiority. In other words, it was perceived as a unilateral and autocratic governing system ruled by ordinary citizens or the lower class.

Democracy, once negatively perceived, reemerged at the forefront of history after the establishment of modern constitutional democracy. The new democratic system shed its negative image of ancient democracy, influenced greatly by both the republican ideal of eliminating autocratic rule by a certain person or certain powers to achieve rule by equal members of the entire community, and liberalism which emphasized individual freedom and rights. The former emphasizes the people's status as citizens, and their autonomous public decision-making. It therefore encapsulates concepts like political equality, national sovereignty and political participation, and is described in the Constitution of the Republic of Korea as "principles of democracy." By contrast, the latter emphasizes the priority given to protecting human rights from state power or tyranny of the majority. Liberalism calls for concepts such as basic human rights, legal constraints imposed on state power, and separation of powers, and is described in the Constitution as "principles of the rule of law." Therefore, under a modern constitutional democracy, political will of the majority should be respected in principle, but must not abrogate the rights of the minority. This is because genuine freedom cannot exist in a society where the people must join the majority in order to enjoy their freedom.

As stated, modern constitutional democracy is formed and operated under two main principles: the principles of democracy that pursue political decision-making based on an autonomous citizenry; and the

principles of the rule of law that protects the rights of individuals, i.e., individual freedom, from state power or the political will of the majority.

(b) Meanwhile, the principles of democracy respect an individual's ability to make autonomous judgments, and have as their foundational belief that a citizenry's autonomous decision-making process will ultimately lead in the right direction. This belief is founded on the normative judgment that citizens of a polity will take responsibility for their final political decisions, that the citizens have equally sufficient abilities and qualifications as a sovereign. Therefore, citizens should respect each other as equals, and acknowledge the validity of others' opinions as much as their own. The essence of democracy lies not with the rule of the sovereign over its people, but with the autonomous and cooperative public decision-making process based on equality and co-existence of freedom, and the respect and benevolence among its citizens.

It follows then, that the principles of democracy reject an absolute conception of the world governed by one transcendental doctrine, and accept a relative conception of the world (value relativism) that acknowledges a pluralistic view of truth. According to these principles, a society essentially consists of "multiple" persons, and each person inevitably has different views. As a result, diversity of political views naturally becomes the premise of democracy.

Therefore, a person's opinion deserves respect as one based on his or her own rationality, and the person may freely express differing political views. Conflicts may arise among the differing views, but this is natural. The idea that seemingly random and conflicting political views can result in a unified majority opinion of a national political community through a non-oppressive and autonomous political process is fundamentally at odds with undemocratic principles. In principle, even a view that appears to be in conflict with acceptable social norms deserves an opportunity

for debates, and a democratic ideal holds that through this process of competition for logic and persuasive powers, the best ideas will prevail.

In conclusion, the principles of democracy described in the Constitution of the Republic of Korea have as its foundation the confidence that respect for individual autonomy based on pluralistic values, and autonomous political decision-making processes will lead to proper expression of the community's political will. The Constitution also attempts to avoid a situation where individual autonomy leads to schisms, and aims to accomplish coexistence and harmony. The Preamble to the Constitution, which prescribes, "further strengthening the basic order of free democracy based on autonomy and harmony," clearly expresses the preferred direction of our democracy.

(2) Importance of Political Parties, and Purpose of the Judicial Dissolution of Political Parties

Today's democracy basically adopts a representative system, a process by which it guarantees that a political party gaining support from the majority of its citizens takes leadership over state affairs for a given period of time, after numerous political parties pursuing a variety of political ideas and values present their respective responses and solutions to public conflicts and political issues. It has as its fundamental basis, a multi-party system in which political parties compete for support by demonstrating preeminence in logic and legitimacy.

Political parties here function as an intermediary between the state and its citizens. A political party represents and are formed by the diverse political expressions of its citizens; and the citizens generally participate in, or exert influence over, national policy decisions through their support of a political party or votes during an election. As such, free establishment and activities of political parties, which help form the citizens' political will, are indispensable prerequisites to today's

democracy. (*See* Constitutional Court Decision, Case No. 2001Hun-Ma710, March 25, 2004.) That is why, unlike with other organizations, our Constitution has a separate provision addressing political parties (Article 8), and the Public Officials Election Act specifically recognizes a system of nominating candidates through political parties.

In addition, the Government responsible for executing state power and the cooperating ruling party may easily face temptations to abuse their powers to suppress, or inflict political damage on, influential opposition parties. Of course, given the watchful eyes of the public, attempts to suppress the opposition party, despite political pressures must seldom occur; however, in consideration of the turbulence and adverse impacts such actions would have on a democratic system, a constitutional countermeasure must exist to respond to any possibility of the Government and the ruling party abusing their vested powers to manipulate public opinions to their advantage in an attempt to remove political oppositions. The freedom of assembly, a long guaranteed right since the promulgation of the First Constitution of the Republic of Korea, serves as one such countermeasure, but our brief history of the modern Republic of Korea includes an unfortunate past in which the Government took unilateral administrative action to cancel the registration of an influential political party in an attempt to eliminate opposition. Introspective of such past history, the Third Amendment to the Constitution on June 15, 1960, added Article 8 addressing political parties, and Paragraph (4) in particular establishing the Judicial Dissolution of Political Parties.

Therefore, this system in Korea is characterized as a means of protecting political parties, in light of how it was born in the first place. Considering that the Government serves as the petitioner for dissolution of a political party, the respondent political party must invariably be the opposition party, and therefore the practical purpose of this system is to

protect the opposition parties, especially those whose roles are focused on criticizing the Government. Although our society's democracy has matured, the respect for our determination that democratic progress must have as its basis the dispelling of fears for minority groups or opposition parties whose political positions remain unstable, remain true today as it did during the time of the Constitutional Amendment.

(3) Necessity for Strict Administration of the System

We must carefully note also, that while the Judicial Dissolution of Political Parties was introduced with the aim of protecting political parties, it also serves as a constitutional recognition of a possibility for such an involuntary dissolution, and could itself serve as a restraint and threat to democracy. The Judicial Dissolution of Political Parties could itself pose a threat to democracy depending on how it is operated, and therefore serves as a type of drastic remedy. Therefore, the Judicial Dissolution of Political Parties must be operated in an extremely strict and limited basis to ensure that the system is not abused as a way to suppress political critics. The doctrine of modern constitutionalism, "*in dubio pro libertate* (when in doubt favor liberty)," must apply still to the Judicial Dissolution of Political Parties.

(4) Limitations on Activities of Political Parties

Our modern democracy, based on a relative conception of the world, operates through the autonomous decision-making of its citizens, and political parties play a key role in that decision-making process; in consideration therefore, even where the objectives or activities of a certain political party appear to have unconstitutional elements, it would be appropriate in principle to have the political party undergo the citizens' democratic political process wherein the allegedly unconstitutional elements of the party are seriously debated during free and fair debates, as a result of which the party loses its base of support and naturally

becomes isolated or excluded from the political sphere.

However, when a certain political party rejects the above-mentioned democratic and autonomous political process in its entirety, denies the fundamental principles of democracy, and pursues a totalitarian regime through violent, oppressive or arbitrary ruling, there arises the danger that such a political party could gain power and demolish the fundamental foundation of democracy. Unlike other organizations, the purpose of a political party is to seize political power, and to take the leadership in the administration of state affairs to implement its own political plans. We should not so easily forget the lessons of our past century in which a political party inclined to fascism and totalitarianism seized power with democratic support, annihilated our noble humanity and damaged mankind's universal values, and the long period of time, efforts and sacrifices it took to escape this abnormal rule to restore democracy. Therefore, we recognize also the Judicial Dissolution of Political Parties as an institutional device to prevent such a political party from attacking our democratic system to abolish or reduce it to a nominal role.

(5) Interim Conclusion

Given all of the above-referenced statements, our Constitution's normative position towards political parties is as follows. The Constitution fully guarantees the existence and activities of all political parties, and protects their rights to the utmost extent even if a political party seems to deny the basic democratic order and aggressively attack it, as long as the party exists to participate in the development of the citizens' political will, and therefore their existence may not be administratively dissolved; only the Constitutional Court may make the determination of the constitutionality of the political party and the necessity to dissolve it before it may be excluded from the sphere of party politics (*see* Constitutional Court Decision of December 23, 1999,

99Hun-Ma135).

Therefore, we understand the Judicial Dissolution of Political Parties as an expression of the normative wills of the framers of the Constitution that special protections be extended for the existence of political parties, and particularly for the existence and activities of opposition parties serving as critics of the Government. The system also establishes, however, a constitutional limitation on the freedom of activities of political parties so that they do not jeopardize the basic democratic order.

B. Grounds for Adjudication on the Dissolution of a Political Party

The issue in this case is how to specifically interpret Article 8 (4) of the Constitution which provides that, "if the objectives or activities of a political party violate the basic democratic order, the Government may bring an action in the Constitutional Court for dissolution of that political party, and the political party shall be dissolved in accordance with the decision of the Constitutional Court" in the context of grounds for the Judicial Dissolution of Political Parties.

(1) "Objectives or Activities of a Political Party"

The objectives of a political party collectively refer to the political direction or orientation of a political party, or the political plans the party wishes to realize in practice, etc. Although most of these may be disclosed through the official platform or charter of a political party, also helpful in determining the objectives of a political party are official statements by party representatives, key leaders and officials (including members of the National Assembly), publications such as party newsletters and promotional materials, and activities of party members who influence the party's decision-making process or are influenced by

the party's political ideology. When the actual objectives of a political party remain hidden, its official platform merely serves as a decorative façade, and we must determine the party's actual objectives through materials other than its official platform.

The activities of a political party refer to actions that are generally attributed to the party, such as actions of party organizations, officials, or members. The issue here is the scope of the actions attributable to a political party; in other words, to what extent could the actions related to a political party be attributed as its activities. In particular, activities of the party representative, the party congress and the Central Committee, the executive body of the supreme council, the party caucus of its National Assembly members and its floor leaders, are the political party's own activities, and thus can be attributed to the political party. The members of the National Assembly affiliated with the political party, although closely related to the political party, represent the people and not the party pursuant to the Constitution, and therefore their actions appear not directly attributable to the political party; however, should their actions appear motivated from their positions as influential members of their political party, and not as representatives of the people, and the actions closely relate to the political party, their actions may be attributable to the political party.

As to the activities of individuals or groups affiliated with the political party, we must review the detailed process by which these activities occurred, in order to determine whether grounds exist to view these as activities of the political party. We must closely examine the circumstances and make a comprehensive determination over whether the political party granted authority or encouraged such activities in the context of the individual or the organization's status, and even if the party conferred no such authority, whether the party in effect ratified the activities afterward by actively advocating support for these activities, or whether any grounds exist to presume that had the party known about

the plans for such activities beforehand the party would have provided support for these activities. On the other hand, the acts of a party leader or a key official that are performed merely at a personal level could hardly be viewed as activities that are subject to review by this Court pursuant to the Judicial Dissolution of Political Parties.

Meanwhile, in light of the structure of the aforementioned Constitutional provision, we interpret it to mean that there exist grounds for dissolution of a political party, if either its objectives or its activities violate the basic democratic order.

(2) "Basic Democratic Order"

(a) As stated above, the constitutional democracy of the Republic of Korea was founded on principles of democracy and the principles of the rule of law, and the Judicial Dissolution of Political Parties serves as an exceptional means of last resort to prevent a particular political party from destroying this system of constitutional democracy.

Therefore, the basic democratic order that the Judicial Dissolution of Political Parties seeks to defend means the most essential substances or elements requisite for the development and operation of a constitutional democracy, and must center around the indispensable elements for the formation and realization of the political will of the citizens through democratic and autonomous political processes, i.e., the elements based on the principles of democracy, and the implementations and protections of these political processes, i.e., the elements based on the principles of rule of law. These elements are the minimum guarantees we deem necessary for the maintenance of our constitutional democracy.

After all, when comprehensively considering the principles of constitutional democracy, the functions of political parties in a democratic society, and the significance of the Judicial Dissolution of

Political Parties, the term 'basic democratic order,' referenced in Article 8 (4) of the Constitution, is founded on a pluralistic world view premised on trust in individuals' autonomous rationality and the relative veracity and rationality of diverse political views, and a political process that eschews all violent and arbitrary rules, and is formed and operated based on a democratic decision-making process that respects the majority but is considerate of the minority, and is based on the basic principles of liberty and equality; more specifically, we view the principles of sovereignty of the people, the respect for basic human rights, the separation of powers, the multi-party system, etc., as key elements of a basic democratic order under the current Constitution.

(b) The concept of the basic democratic order referenced in Article 8 (4) of the Constitution has close links to the likelihood of a judicial decision to dissolve a political party. An expanded scope of the basic democratic order's reach increases the likelihood of a decision to dissolve a political party, while simultaneously reducing the political parties' freedom of activities. Given the significance of freedom afforded to political parties in a democratic society, and potential for abuse of the Judicial Dissolution of Political Parties, the "basic democratic order" referenced in Article 8 (4) of the Constitution should be interpreted in the strictest and narrowest sense possible.

Therefore, the basic democratic order should not be equated to mean the specific form of democracy adopted by the current Constitution. As long as a political party accepts the basic democratic order discussed above, i.e., the indispensable elements of a democratic decision-making process, and the minimum elements required for the operation and protection thereof, it should be allowed to freely express different views about the details of this basic democratic order prescribed by the current Constitution.

Likewise, a political party may freely pursue a diverse spectrum of

ideology that it believes to be right, as long as it does not deny the basic democratic order. The ideological orientations of today's political parties span widely, ranging from liberal democracy to communism. Therefore, even if a political party advocates a certain ideology, it should not be held unconstitutional merely because of its advocacy as long as its objectives or activities do not violate the substance of the basic democratic order discussed above. Determining the judicial dissolution of a political party does not depend on the substance of the political ideology that the political party pursues, but rather on whether the party's objectives or activities violate the basic democratic order.

(3) "Violate"

Article 8 (4) of the Constitution provides grounds for judicial dissolution of a political party, "if the objectives or activities of a political party violate the basic democratic order," and depending on how the term 'violate' is interpreted, even a minor violation of the basic democratic order by the objectives or activities of a political party could be viewed as grounds for the judicial dissolution of the political party. However, such an interpretation could lead, in extreme cases, to the conclusion that a political party may not avoid dissolution if even a minor part of its objectives or activities do not conform to the basic democratic order, an unacceptable conclusion given the importance of political parties in a democratic society. Given the grave constraints imposed on the principles of democracy and the existence and activities of political parties, using every single minor unconstitutional element related to its objectives and activities as basis for its judicial dissolution would be inappropriate.

A decision to dissolve a political party permanently expels the party's ideology from our society's public political forums, and given the central role of political parties in our democracy today, it should be understood as a drastic measure of last resort; therefore such decisions should be

made only under very limited circumstances as discussed above.

If so, violation of the basic democratic order referenced in Article 8 (4) of the Constitution does not mean any minor violation or breach of the basic democratic order, but refers to cases where the objectives or activities of a political party poses a specific danger to inflict real harm to the basic democratic order of Korean society, to such an extent as to require imposition of restraints on the existence of the political party, an otherwise indispensable element of a democratic society.

(4) Principle of Proportionality

The principle of proportionality imposes limitations on encroaching exercise of state power in a constitutional state. An exercise of state power authorized by both the Constitution and a legitimate statute could, when exercised arbitrarily or in a manner that is unnecessarily excessive, still constitute misuse or abuse of authority even without having violated any explicit norms, and thus not align with the Constitution. Therefore, an exercise of state power infringing on fundamental rights should use the least restrictive means to achieve its purpose, and be permitted only where the anticipated benefits outweigh any rights infringed upon by this exercise (*see* 2001Hun-Ma754, December 18, 2003).

In general, the principle of proportionality is one of many criteria for constitutional review applied by our Court to determine the constitutionality of a statute or exercise of state power. However, the Constitutional Court's determination to dissolve a political party pursuant to the Judicial System for Dissolution of Political Parties constitutes an exercise of state power that infringes upon the freedom of a political party, and therefore the Constitutional Court must carefully consider whether its determination conforms to the principle of proportionality before rendering its decision; whether the decision in such a case conforms to the principle of proportionality therefore is not an ordinary

criterion for constitutional review, but rather a form of constitutional requirements or constitutional justification of the Constitutional Court's decision to dissolve a political party. As discussed above, since involuntary judicial dissolution of a political party is a fundamental restriction on a political party's freedom of activities, a core foundational political right under the Constitution, the Constitutional Court must abide by the principle of proportionality pursuant to Article 37 (2) of the Constitution in making such decisions.

Thus, in consideration of Article 37 (2) of the Constitution, the limitations imposed on the encroaching exercise of state power in a constitutional state, and the supplementary nature of the Judicial Dissolution of Political Parties as means of last resort, a decision to dissolve a political party, even when meeting all of the requisite provisions in Article 8 (4) of the Constitution, can find constitutional grounds only when there exists no other alternative means to address the alleged unconstitutionality of the political party, and where the anticipated social benefit from the decision exceeds the social detriment from restricting a political party's freedom of activities and causing a serious restraint on a democratic society.

3. Exceptional Situation in Korean Society

A. Conflict between North and South Korea

Our people underwent the painful ordeal of Japanese colonial rule at the beginning of the 20th century, gaining independence after 30 years, but experiencing extreme turmoil from the military presence of both the United States and the Soviet Union as well as the extremisms of the left and the right, culminating in a cultural tragedy of a fratricidal Korean War only five years into independence on June 25th. The three years of war led to countless deaths and the destruction of most of the nation's

infrastructure, devastating the entire nation. Although the war was suspended, the Korean Peninsula maintains a state of cease-fire, wherein the two adversaries still have guns pointed at each other.

Article 3 of the Constitution claims the Korean Peninsula and its adjacent islands as territory of the Republic of Korea, declaring North Korea as an un-reclaimed territory within the bounds of her sovereignty. On the other hand, North Korea still views the Republic of Korea's constitutional order of liberal democracy as a target to overthrow or replace. Although the collapse of the Cold War and the resulting changes in the 1990s seemed to signal transition towards improved reconciliation and cooperation, resulting in the simultaneous joining of South and North Korea as member states of the United Nations in September of 1991, the signing of the Inter-Korean Basic Agreement between the representatives of the Republic of Korea and North Korea on December 13, 1991, and the promulgation of the Inter-Korean Exchange and Cooperation Act, the ideological confrontations between the two peninsular powers and the North Korean pursuit of unification through communism have not undergone any fundamental changes.

The state of ideological confrontation on the Korean Peninsula appears out of sync with the new historical trends in the 21st century. Nevertheless, the division, the ideological confrontation, and the threat to the regime caused thereby are stark realities facing us living on the Korean Peninsula today. South Korea and North Korea have failed to escape the Cold War framework.

Above all, North Korea does not hesitate in continuing its military provocations against the Republic of Korea. The continuous military provocations since the armistice include the bombing at the Aung San Mausoleum in Myanmar, and the bombing of a Korean Air jet. Since withdrawing from the Treaty on the Non-Proliferation of Nuclear Weapons in 1993, and conducting a nuclear test in October 2006, North Korea has continued to test its long-distance missiles even until recently,

escalating tensions of war on the Korean Peninsula, not to mention its continuous military aggressions, including the First and Second Sea Battles of Yeonpyeong, the sinking of the South Korean warship *Cheonan* by a torpedo, and the killing of civilians by the bombardment of Yeonpyeong island.

B. Necessity to Consider Realities

As examined above, North Korea presently targets South Korea as an enemy of its regime, and has subjected South Korea to ongoing attempts to overthrow its government. The Constitution of the Republic of Korea, and the basic democratic order enshrined in the Constitution that includes principles of democracy and basic human rights, all face the same fate. As is generally known, such ideological confrontation is at odds with the general situation of the world today.

The current inter-Korean confrontation on the Korean Peninsula has much relevance to the present case. Therefore, this Court must perforce consider the exceptional circumstance facing our society in the form of a division of the South and the North. While most countries today have constitutions with similar contents, and constitutionalism globally is moving toward a convergence of universal values shared by individual countries, it is also evident that differences have prevailed among the different constitutions, and constitutional adjudications of individual nations have each reflected their own unique constitutions, culture or history, and their political and social realities.

Therefore, this Court must consider, in the adjudication on dissolution of a political party in the present case, the universal principles of constitutionalism as well as various aspects of the unique reality faced by our society, the exceptional historical circumstances of the Republic of Korea, and the traditional perceptions and legal consciousness shared by our people.

4. The Trend of Korean Society's Revolutionary Movements, and the Formation and Splitting of the Respondent

A. The Trend of Korean Society's Revolutionary Movements

Politically, Korea entered a prolonged period of authoritarian rule post 1960s, while economically, it achieved rapid growths based on economic development plans, spurring movements in some parts of the Korean society for radical and rapid reforms, including recovery of freedom and democracy, fair distribution of wealth, etc. Such movements were particularly vigorous politically, and the activist camps that had previously been based on nationalism or liberalism began in the 1980s to embrace socialist revolutionary theories represented by Marxism-Leninism, forming a full-scale social revolutionary movement.

After undergoing complicated divisions and theoretical conflicts, ideological debates within such activist camps eventually resulted in two main fronts: the National Liberation front ("NL"), and the People's Democracy, or People's Democratic front ("PD"). Although some theoretical differences exist, the NL is generally called the "Autonomy Faction," while the NP is called the "Equality Faction." Each of them asserted a different revolutionary theory based on their different views about social contradictions that ailed the Korean society. Unlike the Equality Faction that viewed the Korean society as a new form of colonial state with monopoly capitalism, and which emphasized the overcoming of the class dominance system, the Autonomy Faction viewed the Korean society of the 1980s as a semi-feudal or semi-capitalist society subordinate to imperialist powers, in particular, American imperialism (a colony in this sense). The Autonomy Faction's proposed solution for reforming the Korean society is the "National Liberation and People's Democracy Revolution," or the "NLPDR." If the colonial semi-feudal society theory or the colonial semi-capitalist

society theory provides the epistemological basis for understanding social contradictions, the NLPDR theory offers the methodological basis for solving such contradictions. The NLPDR theory combines the idea of national liberation revolution, i.e., liberation from imperialist powers, and the idea of people's democratic revolution, i.e., liberation from class dominance. The Autonomy Faction believes in achieving national liberation revolution first, and that this requires anti-American autonomy, anti-fascist democratization, and unification of the South and the North, which would overthrow Korean capitalism tied to imperialism. They maintain a stance favoring North Korea based on their view that North Korea has taken an autonomous position against the imperialist powers, and include those factions that accept the *Juche* ideology, the guiding ideology of North Korea's Workers' Party, including the *Juche* (or self-reliance) faction, the *Jusa* faction, and the so-called non-*Jusa* NL faction. They have secured leadership positions within the student activist movements, and have exerted enormous influences throughout all the activist camps in Korea.

B. The Formation and Splitting of the Respondent

(1) Formation of the Democratic Labor Party

In December of 1996, when the National Assembly passed bills such as the one amending the Labor Standards Act to legalize lay-offs, the labor movement circles, recognizing the need for political influence, formed the "People's Victory 21 for Democracy and Progress" ("**People's Victory 21**"), to put up their own presidential candidate for the 1997 Presidential Election. After the election, the People's Victory 21 served as a foundation for the formation of the Democratic Labor Party on January 30, 2000. The Democratic Labor Party failed to gain any seat at the National Assembly, and was deregistered when it won less than 2% of the votes for the party at the 16th General Election on

April 13, 2000, re-registering as a political party on May 25, 2000. Thereafter, the Democratic Labor Party successfully entered the National Assembly by winning two district seats and eight seats for proportional representatives during the 17th General Election in April 2004, and also grew rapidly in its membership during this time.

(2) Conflicts Surrounding the Party Platform and the Splitting of the Party

With the growth of the Democratic Labor Party, conflicts over the direction of the party also deepened among the various factions and forces within the party. These included conflicts between those seeking to strengthen the socialist line versus those wanting to introduce liberal democracy in 2003, disagreements over the party's responses to North Korea's declaration of nuclear weapons possession and nuclear tests, and disagreements over the cause of defeat of the party's presidential candidate, Kwon ○-Gil, who had proposed a Federal Republic of Korea as part of his national vision during the 17th Presidential Election in December 2007, and the handling of party officials involved in the so-called *Ilsimhoe* case. In particular, after the Emergency Response Committee's draft reform plan, which had included plans for the expulsion of party officials involved in the *Ilsimhoe* case, was voted down during the Interim Party Convention on February 3, 2008, most of the members from the Equality Faction, including Sim ○-Jung, Roh ○-Chan, and Cho ○-Su, left the party and formed the "Solidarity for New Progressive Party" on February 21, 2008, and subsequently founded the New Progressive Party in March of 2008, splitting the Democratic Labor Party (the "**First Split**").

(3) Founding of the Respondent

On January 20, 2011, the Democratic Labor Party, the New Progressive Party, the Socialist Party, and the Korean Confederation of

Trade Unions (“KCTU”), held a “Joint Meeting of the Representatives of the Progressive Camps” for discussions on the grand consolidation of progressive camps. In the course of subsequent discussions about the consolidation process, the People’s Participation Party also joined the discussions, but the Socialist Party and the New Progressive Party withdrew from the consolidation discussions, objecting to issues such as the Democratic Labor Party’s stance toward North Korea, and the participation of the People’s Participation Party in the consolidation. Consequently, members of the New Progressive Party, including Roh ○-Chan, Sim ○-Jung and Cho ○-Su, left the party in September 2011, and formed the New Progressive Unification Solidarity, which then jointly announced a merger on November 20, 2011, with the Democratic Labor Party and the People’s Participation Party, passed a resolution for the merger and founding of the Respondent on December 5, 2011, and then registered the party with the National Election Commission on December 13, 2011, officially establishing the Respondent.

(4) The Vote-Rigging of the Primary for Candidates for Proportional Representation, and the Splitting of the Respondent

The Respondent held a primary from March 14 to 18, 2012 to determine the order of candidacy for proportional representatives for the 19th General Election. In this primary, Lee ○-Ki was selected as the second candidate for proportional representatives as winner of 1st place in the general proportional representation list, while Kim ○-Yeon was selected as the third candidate as a youth representative. In the General Election on April 11, 2012, the Respondent won six seats for proportional representatives (Yun ○-Sun, Lee ○-Ki, Kim ○-Yeon, Jeong ○-Hu, Kim ○-Nam, and Park ○-Seok) and seven assembly members from local constituencies (Lee ○-Gyu, Roh ○-Chan, Sim ○-Jung, Kim ○-Hee, Oh ○-Yun, Kang ○-Won, and Kim ○-Dong).

After the election, however, it turned out that there had been

vote-rigging during the primary to select proportional representation candidates, including Lee ○-Ki and Kim ○-Yeon. At a meeting of the party's Central Committee on May 12, 2012 to adopt a resolution for reform, including *ex post* measures against the vote-rigging case, dozens of members of the Respondent forcibly occupied the podium and assaulted Cho ○-Ho, a co-representative of the Respondent, as well as others.

Thereafter, pursuant to a meeting of the Central Committee, co-representatives Ryu ○-Min, Sim ○-Jung, and Cho ○-Ho resigned from office, and the newly formed Emergency Response Committee for Reform (headed by Kang ○-Gab) recommended the resignation of all proportional representation candidates; however, Lee ○-Ki and Kim ○-Yeon proceeded to register as members of the National Assembly in defiance of the recommendations, and commenced their terms of office. A motion to expel Lee ○-Ki and Kim ○-Yeon made at the General Assembly on July 26, 2012, failed to pass, and Sim ○-Jung, then floor leader of the Respondent, and all the party leaders assumed responsibility therefor and resigned from office.

Thereafter, Kang ○-Gab, Sim ○-Jung, and others decided to leave the party, and held a General Assembly on September 7, 2012, where a resolution was passed for "self-expulsion" of proportional representative members of the National Assembly, Park ○-Seok, Seo ○-Ho, Jeong ○-Hu, and Kim ○-Nam. In around September of 2012, a number of party members formerly from the People's Participation Party and the New Progressive Unification Solidarity left the party, and under the initiatives of Roh ○-Chan, Cho ○-Ho, Shim ○-Jung, etc., formed the Progressive Justice Party ("**Justice Party**") (the "**Second Split**").

Meanwhile, at an election for the Respondent's party officials in March 2013, Lee ○-Hee was elected Party Representative, and Yu ○-Hee, Lee ○-Hui, Min ○-Ryul, Ahn ○-Sup, and Kim ○-Gyo were

elected as members of the Supreme Council. Oh ○-Yun, the floor leader, became an *ex officio* member of the Supreme Council. For the recommended positions for Supreme Council, Choi ○-Gweon and Jeong ○-Seong were recommended and approved for the farmer section and labor section, respectively. Lee ○-Hee, party leader, appointed Lee ○-Gyu as the Chair of the Policy Committee and the President of ○○ Research Institute, and Ahn ○-Seop, a Supreme Council member, as Secretary General, after obtaining approval from its Central Committee. This is how the second Supreme Council of the Respondent was established and is operating to this day.

5. Objectives and Activities of the Respondent

A. The Respondent's Platform

(1) In participating in the formation of the citizens' political will, political parties present the political direction and objectives of their pursuit, and strive to materialize them by gaining public support. "Objectives of a political party," as the subject matter of adjudication on the dissolution of a political party, means the political direction and objectives pursued by the relevant political party. As mentioned regarding the subject matter of adjudication, the issues in the present case are the political direction and aim pursued by the Respondent, the Unified Progressive Party.

The Respondent stemmed from the Democratic Labor Party, and its leadership used to operate with the same ideological aim within the Democratic Labor Party prior to becoming a driving force for the Respondent, so the Respondent's membership and its stated platform maintain a certain continuity and relevance with the Democratic Labor Party. Therefore, in order to identify the Respondent's political

objectives, the statements, activities, etc., of its current leading group and key members during their time with the Democratic Labor Party inevitably serve as reference materials. However, these reference materials prove meaningful only as past activities of the current leading group or key members of the Respondent, and the decisions, statements or objectives of the Democratic Labor Party made with their participation are not, and must not be, equated with those of the Respondent.

(2) In order to identify the Respondent's objectives, it is necessary to first examine the Respondent's platform. The preamble to the Respondent's platform declares that it aims to "establish an autonomous democratic government whose owners are the working people, create a progressive democratic society where the People truly command all aspects of social life, including politics, economy, society, and culture," and "establish a peaceful nuclear-free regime and an independent peaceful unification, to build a new society respectful of human beings and labor," and the society it aims to create according to the Respondent's platform is a "progressive, democratic society whose owners are the working people, such as workers, farmers, and small and medium enterprises," which shows that the Respondent's values and ideological goal are "progressive democracy." The Respondent affirmed this on June 30, 2013, when it announced during its Policy Convention that "The new society that the Unified Progressive Party pursues is a society that has realized progressive democracy."

However, a platform that displays the aim, ideology, or basic policy of a political party usually gets stated in abstract terms that hold diverse meanings, such as "progressive democracy" that the Respondent pronounces as its guiding ideology. Various political and philosophical interpretations exist for the terms "progress" and "democracy," depending on the historical circumstances or the person who uses these terms. In particular, the term "progress" means improvement to a certain degree or

level, or the proper changes, development or aims pursuant to the laws of history, and can hardly be viewed as having any substantive contents.

Therefore, in order to properly understand the actual meaning of progressive democracy pursued by the Respondent, this Court will go beyond the literal meaning of the words to examine the way in which progressive democracy was introduced to the Respondent's platform, the identity of those who played a leading role in introducing progressive democracy to the party platform, and their ideological inclinations and aims.

B. The Introduction of Progressive Democracy to the Party Platform

(1) Background of Introduction

(a) The Post-Colonial "Progressive Democracy"

Progressive democracy was first introduced in June 2011 to the amended platform of the Democratic Labor Party, which played a leading role in the merger of the Respondent. At the Second Policy Convention where the amendment occurred, Choi ○-Yeop, the Chair of the Platform Amendment Committee, introduced the bill for amendment by stating that "From the liberation of 1945 to the Korean War, no Korean could claim not to know the meaning of progressive democracy."

The Post-Colonial use of the term "progressive democracy" came from Yeo ○-Hyeong, Park ○-Yeong, Kim Il-Sung, and others. North Korea emphasized Kim Il-Sung's progressive democracy as "the founding principles and objectives for establishing the Democratic People's Republic to build a democratic and autonomous independent nation," and argued that post-colonial Korea's anti-imperialist and anti-feudalist democratic revolution developed into a unique form of Korean socialism,

implementing the *Juche* ideology.

In South Korea, on the other hand, the term "progressive democracy" re-emerged in the late 1980s, mainly among organizations classified as the so-called Autonomy Faction, such as the Patriotic Student Association of ○○ University, the National Council of Labor Movement Organizations, and the National Conference of Democratic Workers. These organizations presented progressive democracy in their platforms as the idea or objective they pursued, and articulated "autonomy, democracy, and unification" in describing it.

(b) Controversy Surrounding the Socialist Party Platform

1) In formulating the platform at the time of the founding of the Democratic Labor Party in January 2000, both the Autonomy Faction and the Equality Faction participated, and in an effort to reflect the stance of the Equality Faction which had played an active role in creating the Democratic Labor Party, the phrases "overcome the errors of state socialism and limitations of social democracy," and "inherit and continue to develop the socialistic ideals and principles that have continued down generations of mankind, to realize a new community of liberation," were inserted into the platform.

Although the National Alliance for Democracy and Unification of Korea (the "**National Alliance**"), which had participated in the formation of People's Victory 21, had decided officially not to participate in the formation of the Democratic Labor Party, some members of the regional alliances (despite being disbanded in 2008, those in and around the Democratic Labor Party and the Respondent categorized their political factions on the basis of regional organizations of the National Alliance; hence the organizational divisions of the National Alliance will be used here irrespective of its disbanding), such as Lee ○-Gyu, Kim ○-Hee, Jeong ○-Ju, Lee ○-Dae, Kim ○-Wook, Kim ○-Rae and Park ○

-Hyeong (from ○○ Alliance), Kim ○-Hyun, Min ○-Ryeol and Cheon ○-Tae (from ○○ Alliance), and Jang ○-Seop and Kim ○-Dong (from ○○ Alliance), had individually joined and participated in the Democratic Labor Party from the time of its formation.

2) Meanwhile, in September 2001, the National Alliance held a "National Democratic Front Workers' Advancement Convention" at a training institute in Chungcheongbuk-do, and adopted a special resolution on "the construction of an extensive national democratic front and a national democratic party in three years and the establishment of an autonomous, democratic government, and the construction of a federal unified state in ten years," (a three-year plan and a ten-year prospect), also referred to as "The Mt. *Gunja* Promise" or "The September *Thesis* (The September Policy)," after which members of several organizations, such as the Incheon Alliance affiliated with the National Alliance, the National Federation of Farmers' Associations ("**National Federation of Farmers**") and the South Korean Federation of University Students Councils (hereinafter referred to as the "**Federation of University Students Councils**"), joined the Democratic Labor Party systematically.

As a result, the Democratic Labor Party saw a rapid increase in membership, and a stronger regional organization throughout the country. However, with the increased membership from the Autonomy Faction, the differences between the political factions and the disputes surrounding the different ideological aims, previously undisclosed at the time of the party's founding, began to emerge publicly. In particular, the Autonomy Faction led the argument repeatedly for deleting the phrase "inherit and continue to develop the socialistic ideals and principles," in the platform adopted at the founding of Democratic Labor Party, to replace it with the term "progressive democracy."

3) Shortly before the 2002 Presidential Election, a dispute arose within the Democratic Labor Party over the ideals of an alternative

society, and the August 2002 issue of the official party journal, *Theory and Practice*, introduced a variety of views on the aims and ideal system under the party's platform in a special feature issue entitled "What is the Alternative Society of the Democratic Labor Party." An article by Lee ○-Dae (○○ Alliance), "Socialism Based on Perfect Democracy Where the People Become the Owners," argued that progressive remodeling of the Korean society is closely linked to the overcoming of the national division and the realization of unification, and is a process of overthrowing the privileged class.

4) During the dispute over deletion of the phrase "succession to, and the development of socialistic ideals and principles" from the party platform, i.e., the so-called "Socialist Values Dispute" of the 2003 meeting of the Special Committee for Party Development, a subcommittee of the Central Committee, Kim ○-Hyun (○○ Alliance) argued in essence as follows: "The succession to, and the development of socialistic ideals and principles" must be deleted from the platform; in view of the nature of the Korean society, its developmental stage, and tasks for reform, socialism is not an alternative for the development of South Korean society at this stage; the education of party members should focus on educating about national autonomy; and progressive democracy, distinguishable from liberal democracy, centered on the People, such as workers and farmers, should be introduced into the party platform. Although Central Committee member Lee ○-Sam and others in the party belonging to the Autonomy Faction argued for deletion of the socialistic elements, and opposed, and thereby delayed the submission of a comprehensive report of the Special Committee for Party Development which stated that, "efforts should be intensified to succeed to and develop socialistic ideals and principles in the activities of the party," to the Party Convention, the representatives in favor of this unilaterally included the deliberation and adoption of the report as an agenda item to the Special Party Convention on November 1, 2003, barely passing by two more votes than the quorum for resolution. In his

book, *My Love, the Democratic Labor Party - A Track Record of Ten Years of the Democratic Labor Party*, Choi ○-Young (involved in the *Ilshimhoe* case) commented on this incident that, "Although the socialist political line managed to pass, party members took this as an opportunity to systemize theories on progressive democracy."

Kim ○-Hyun also contributed an article to the November 2006 issue of the official party journal *Theory and Practice*, entitled, "The Fall of the 1987 System and Democratic Revolution as Alternative," where he argued for the introduction of progressive democracy on the ground that it is the alternative solution for the era, stating that "Progressive democracy is democracy by the People, in which the People, as owners of politics, seize political and economic sovereignty and conduct political activities with People's power, to guarantee People's autonomous and active engagement."

5) During lectures given at the "Seoul Group for Autonomy and Equality (Affiliated) School of Politics," in December 2005, organized mainly by members of the Autonomy Faction within the Seoul Regional Party Chapter of the Democratic Labor Party, Lee ○-Gyu (from ○○ Alliance) argued that 'The reason for the party's focus on issues over non-permanent laborers movement and the people's livelihood is that the people's advances ultimately come from developing a popular, political, and class foundation for progressive democracy, rather than an immediate resolution of the class liberation problem'; Lee ○-Hun (involved in the *Ilshimhoe* case) argued that "Various forms may exist for the autonomy, democracy and unification line, but the only political line exists with the National Liberation People's Democracy (commonly, the autonomy line or NL). The NLPD line is the line that combines national issues and class issues and resolves both tasks one by one through a proletarian dictatorship"; and Park ○-Soon (from ○○ Alliance) argued that 'Korean society is a colonial semi-capitalist society, revolutionary movements in Korea are for national liberation and democracy, and the basic tasks of revolutionary movements in Korea are national autonomy

and national unification, which may be accomplished through the establishment of a national autonomous government and a federalized unification. North Korea's military-first capacity has allowed for a decisive resolution of the U.S. military withdrawal. In other words, the withdrawal of U.S. military forces and the autonomy of the South are being materialized by the capability of the entire nation, and not solely by the South's capability. Once the National Security Act is abolished, the North's legalized political capability will join forces with the South to accomplish unification at a higher level, solve pending class issues, and fulfill the tasks of a progressive democracy.'

6) Han ○-Seok, the Chair of U.S. Eastern Regional Committee of the Democratic Labor Party argued in an article contributed to the official journal of the party in January 2006, that 'The stage of revolution in Korea is not a socialistic stage but a democratic stage, and therefore progressive democracy should be inevitably the political ideology of the labor class, etc.,' and in September 2006, contributed another article, asserting that 'A political consensus to form a unified front will be formed not by any socialistic or social democratic platform but by a progressive democratic platform that aims at a democratic revolution.'

7) Those outside of the party also argued for the introduction of progressive democracy to the platform of the Democratic Labor Party, which claimed to be progressive. An article written by ○○ Research Institute, a member organization of the Korea Alliance for Progressive Movement, entitled "Ten Questions and Ten Answers for New Year 2004," and a speech by its Head Director, Cho ○-Won, at a Forum on National Democratic Movements in June 2004, asserted that the Democratic Labor Party must play a crucial role in forming a large-scale national democratic front, aiming at autonomy, democracy and unification, and that it must delete the socialist platform and adopt progressive democracy as its platform. The Action and Solidarity for the

South-North Joint Declaration (the "**Action and Solidarity**"), an enemy-benefitting organization once headed by Kim ○-Gyo, also defined the revolution in today's Korean society as a 'democratic revolution for national liberation,' and urged for the introduction of progressive democracy to the political platform, by replacing it with national autonomy, democracy, and national reconciliation for all people.

(2) Publicized Discussion on 'Progressive Democracy'

(a) Formulation of Strategies for Seizing Power

1) After debates on the value of socialism in 2003, the party decided to establish the Strategy Committee for the Seizure of Power in July 2004 to continue the discussions. In August 2006, full-scale activities began with the launching of the second term of the Strategy Committee for the Seizure of Power, with Choi ○-Yeop as the Chair, and Kim ○-Wook (from ○○ Alliance) as director. It continued research on the realities and challenges facing the Korean society, and began in earnest to design the timing, channels, methods, etc., for seizing power until the splitting of the Democratic Labor Party in 2008.

2) Around the time of the launch of the second-term of the Strategy Committee for the Seizure of Power, the Democratic Labor Party held a "Forum on Permanent Solidarity Mechanism," in line with the discussions that had taken place in and around the party for creation of a permanent solidarity mechanism as a means of seizing power and realizing progressive democracy.

Jeong ○-Yeon (from ○○ Alliance), a presenter at the forum and the then-chair of the Policy Committee of the National People's Solidarity, remarked that 'The permanent solidarity mechanism of progressive parties and progressive camps is a weapon for developing people's political power and seizing power, and it is necessary to unify extensive

progressive organizations and powers into one solidarity, in order for a progressive party to seize power, while the Democratic Labor Party should take the initiative in the creation of the permanent solidarity mechanism to grow into a popular party capable of becoming a ruling party,' and argued for national autonomy, democracy by the people and autonomous peaceful unification as the platform of the permanent solidarity mechanism. The proceedings of the above-mentioned forum also included an article written by Lee ○-Dae, the then-Chair of the Policy Committee of the Democratic Labor Party, as a reference material, arguing for the "creation of a permanent solidarity mechanism mainly led by the Democratic Labor Party as a general union of progressive camps that include workers, farmers, the poor, youths, students, progressive intellectuals, religious people, artists, citizens, women, people with disabilities, and the minority."

Discussions on the creation of a permanent solidarity mechanism also took place outside of the Democratic Labor Party: Ryu ○-Jin, a researcher at ○○ Research Institute under Action and Solidarity, in an article entitled "Necessity to Build a Unified Front in Light of Experiences of Other Countries" in the official journal of the Democratic Labor Party, *Theory and Practice*, in March 2006, and Choi ○-Wook, the Chair of the Policy Committee of Action and Solidarity, in an article entitled "The Construction of a Union is a Top-Priority Task in View of the Political Situation for the Unification of Homeland" in the *Autonomous People's Paper* in May 2006, argued for the construction of a unified front in order to establish a progressive democratic regime in Korea and unify the homeland.

As examined above, persons viewed as the Autonomy Faction by in and around the party actively advocated for the creation of a permanent solidarity mechanism as a successor to the National Alliance and the People's Solidarity, while most of those who belonged to the Equality Faction of the party opposed the creation of a permanent solidarity

mechanism on the grounds that such solidarity conflicted with the centrality of the labor class and was compromising.

In the end, the Democratic Labor Party adopted a resolution to participate in the progressive camp's Preparatory Committee for the Creation of a Permanent Solidarity Mechanism by 137 votes in favor out of 224 representatives present at the sixth meeting of its Central Committee in October 2006, and a resolution to join the Korea Alliance for Progressive Movement by 146 votes in favor out of 229 representatives present at the fourth meeting of its Central Committee, and in September 2007 the Korea Alliance for Progressive Movement was founded to pursue the guiding ideology of autonomy, democracy, and unification.

The Korea Alliance for Progressive Movement included those recognized as enemy-benefitting organizations, such as Action and Solidarity, Federation of University Students Councils, Corea Youth Movement Council ("**Youth Movement Council**"), South Headquarters of National Alliance for Unification of Homeland, and Solidarity of Youths and Students for Practice of June 15th Joint Declaration, and Jeong ○-Yeon became the chair of its Policy Committee. The Korean Confederation of Trade Unions participated in the Preparatory Committee in the course of launching the Korea Alliance for Progressive Movement, but deferred its membership and remained as an Observer Organization after the creation of the alliance.

During a talk with Kim ○-Hyun, arranged by Hangeora Newspaper on December 30, 2007, Cho ○-Su criticized the Democratic Labor Party's participation in the Korea Alliance for Progressive Movement, commenting that "The Autonomy Faction is still based on the concept of the anti-imperialist unified front of the 1930s to 1940s. Without this concept of the front, the majority faction could not have pushed for the Party to join the Korea Alliance for Progressive Movement."

3) The Democratic Labor Party's Strategy Committee for the Seizure of Power held a 'Forum on the nature of Korean society and revolutionary strategies' on October 23, 2007, in which Jeong ○-Hee, Kim ○-Sik, Kim ○-Min, Kim ○-Cheol, Min ○-Wu, Park ○-Soon and Jeong ○-In participated as a moderator, presenter and panel members.

As will be further discussed below, Kim ○-Min, a member of the task force team of the Strategy Committee for the Seizure of Power, presented a paper entitled "The Nature of Korean Society and Revolutionary Strategies," contending that 'Our society is a divided colonial nation, and our revolutionary strategy for people's democracy is a strategy modifying the strategy for people's democratic revolution, which is a socialist revolution strategy common in an imperialist-stage colony, etc., to fit peculiarities of a divided nation.' In a paper presented at the forum entitled, "The Nature of Korean Society and the Direction of Revolutionary Movements in the June 15th Era," Park ○-Soon, the President of ○○ Research Institute at the time, argued that 'Korean society is a colonial semi-capitalist society,' further asserting that "Revolutionary movements in Korea are for democratic reform for national liberation, and the goals of the reform are to establish an autonomous, democratic government and to found a unified government under a federation. In the process of pushing forward the revolutionary movements for national liberation, tasks for class liberation, which is the materialization of progressive democracy, must also be pushed simultaneously."

The articles presented by Kim ○-Min and Park ○-Soon at the forum were recognized as enemy-benefitting publications in the Action and Solidarity Case.

(b) Pledges for the 17th Presidential Election

At the Democratic Labor Party's 17th Presidential Election Primary,

Kwon ○-Gil was elected as the party's presidential candidate with support from the Autonomy Faction within the party. Kwon ○-Gil proposed a Federal Republic of Korea as part of a national vision, and urged "to overcome a Republic of Korea that is a divided, subordinate, *chaebol* (or conglomerate) nation, and build a new country in which unification, autonomy and equality are realized altogether." Kwon ○-Gil also claimed that a Federal Republic of Korea, as "a one-state, two-regime federal system will embrace the policies of the North's regional governments and the South's regional government," and proposed "progressive democracy" as the ideological foundation for the Federal Republic of Korea, with the specific policy pledges being led by Lee ○-Dae, the Chair of the Policy Committee.

(c) Splitting of the Democratic Labor Party and Changes in the Party Leadership

The outcome of the 17th Presidential Election in 2007 was viewed as a complete defeat for the Democratic Labor Party. The party members from the Equality Faction ascribed the defeat to the party's failure to properly respond to the North Korean issues, and problems with the '*jongbuk*' (North Korea-following) groups, and demanded reforms. As discussed earlier, however, such demands for reform were not accepted, resulting in a number of party members from the Equality Faction leaving the party, splitting the Democratic Labor Party. At the July 2008 party officials' election after the split, floor leader Kang ○-Gab was elected party leader, Lee ○-Hee (current leader) was appointed Chair of the Policy Committee, and Oh ○-Yun was appointed as Secretary General, with the Autonomy Faction taking over key posts including these top three positions.

Oh ○-Yun, who ran for a seat on the Supreme Council at the time, urged for 'construction of a powerful unified nation of progressive democracy,' pointing out that "people are thronging the streets with

candles in their hands, declaring themselves as the main agents for the realization of democracy," and pledging "commitment to win a victory in the erupted struggle of the people, and to realize autonomous democracy and further construct a peaceful, unified nation."

(d) The First Party Platform Convention of June 2009

In August 2008, after a party split, the Strategy Committee for the Seizure of Power was formed for the third term, centered around the Autonomy Faction that urged for the introduction of progressive democracy. Choi ○-Yeop became the Chair, Park ○-Soon became the Director, and together with Kim ○-Min of the Planning Committee, they led the Party's efforts towards strategy development for seizing power, and amendment of its platform.

In May 2009, the Third Strategy Committee for the Seizure of Power prepared a report on the introduction of progressive democracy to the party platform, and the Central Committee of the Democratic Labor Party approved a motion proposed by Min ○-Ryeol, a Central Committee member, to change "new democracy" in the draft Resolution of the Party's Policy Convention to "progressive democracy."

Accordingly, the First Party Policy Convention in June 2009 adopted a resolution claiming that "progressive democracy pursued by the Democratic Labor Party guarantees practical and substantive democracy beyond procedural and formal democracy, accomplishes economic democracy beyond political democracy, and aims for direct democracy beyond indirect democracy," and approved a Report by the Strategy Committee for the Seizure of Power, arguing for "the pursuit of an autonomous, democratic government by the people, an autonomous, unified nation under a federation, and grand progressive consolidation." In addition, it adopted a report by the Subcommittee for the Review of the Platform, containing a plan to form a Platform Amendment

Committee to amend the platform.

With respect to this, Kim ○-Sik, a member of "Da-○○," an International Socialist opinion group within the Democratic Labor Party, claimed that strengthening the progressive alliance was a condition precedent for securing the autonomous faction's hegemony, and assessed that this vision for an autonomous democratic government based on "progressive democracy" became the immediate goal of the Democratic Labor Party.

(e) Formation of the Platform Amendment Committee and Preparation of the Draft Amendment

The Second Platform Amendment Committee was formed in September 2010 with Choi ○-Yeop as Chair, Park ○-Soon as director, and Kim ○-Min as member, and began working on the amendment of the platform. The Committee reported a draft amendment of the platform to the Central Committee in January 2011, and after undergoing internal debates, prepared a draft amendment in April 2011, deleting the phrase "the succession to, and the development of, ideals and principles of socialism," from the platform, and replacing it with 'progressive democracy.'

During this process, at a forum in January 2011, celebrating the founding of ○○ Research Institute annexed to the "Voice of the ○○," Lee ○-Dae and Kim ○-Gyo argued that Korean society's colonial subordination to the United States remained strong, and that establishing progressive democracy as an alternative ideology of the progressive camps was an important theological task for progressive movements in the 21st century Korean society, and that the Democratic Labor Party must accomplish this task, and at a forum on February 7, 2011, under the theme "Amending the Democratic Labor Party's Platform: How Should It Be Done?" Park ○-Soon and Kim ○-Kyo urged the deletion

of socialist phrases from the platform on the ground that the party's goal was to build capacity to become a ruling party, and the socialistic ideology was hardly acceptable to the majority of citizens.

(3) Introduction of "Progressive Democracy" to the Democratic Labor Party's Platform

(a) Amendment of the Party Platform

On June 18 and 19, 2011, the Democratic Labor Party held its Second Party Policy Convention. At a debate held on the first day of the convention on the deletion of the phrase "the succession to, and the development of, ideals and principles of socialism" from the party platform, Park ○-Soon argued for the deletion. By contrast, Jeong ○-In, Kim ○-Sik and others criticized this, and expressed an opposing view to the amendment of the platform. On the second day of the party convention, a resolution for the amendment of the platform was adopted, the most significant change being the deletion of the phrase "overcome the fallacy of state socialism and limitations of social democracy and achieve the succession to, and the development of, socialistic ideals and principles that have been handed down from generation to generation in the history of mankind, to realize a new community of liberation, by embracing the long-accumulated wisdom of mankind and outcomes of various progressive social movements" from the platform, and inserting the phrase "build a progressive democratic system."

(b) Internal and External Dissemination of the Party Platform

After the amendment of the platform, the Democratic Labor Party focused its efforts on promoting, propagating and teaching about "progressive democracy" internally and externally. The ○○ Research Institute, a policy research institute of the Democratic Labor Party, published a booklet, "Progressive Democracy in the 21st Century,"

authored by Choi ○-Yeop and Park ○-Soon, explaining, *inter alia*, the Korean society, and the meaning and substance of progressive democracy, and handed it out to the attendees of the Second Party Policy Convention. In the preface of the book, Choi ○-Yeop wrote "read this book if you want to know what 21st century progressive democracy is." The ○○ Research Institute also posted on its website documents about progressive democracy, including "The Second Party Policy Convention of the Democratic Labor Party that Defined the Path of a Progressive Party" by Lee ○-Yeop, the then Chair of the Policy Committee.

Also, in July 2011, the Democratic Labor Party asked Choi ○-Yeop and Park ○-Soon, who played leading roles in the amendment of the platform, to provide education on "progressive democracy" to Supreme Council members, floor members, party officials and researchers at the ○○ Research Institute, and in August 2011, Choi ○-Yeop and Park ○-Soon participated as lecturers at the Party's "School for Instructors in Progressive Democracy," in an effort to strengthen party-wide educational programs for "progressive democracy." In addition, the Party posted on its website, *Collection of Teaching Materials for the School for Instructors in Progressive Democracy*, prepared based on the above-mentioned "Progressive Democracy in the 21st Century," making it available for party members to download. Also, those like the former Chair of the Policy Committee, Lee ○-Yeop, and then-instructors for the Members Education Committee's Officers' School for Politics, Kwak ○-Gi and Mun ○-Hwan, etc., also gave lectures on "what is progressive democracy?" at ○○ Progressive Solidarity Alliance, based on the above-mentioned "Progressive Democracy in the 21st Century." In addition, Park ○-Soon published a series of commentaries on the platform regarding progressive democracy in five consecutive issues of the "Progressive Politics," the official journal of the Democratic Labor Party, from July to August 2011, practically with the same content as that of "Progressive Democracy in the 21st Century."

Meanwhile, Lee ○

-Hun (involved in the *Ilsimhoe* case) contributed an article to the "Progressive Politics," observing that 'The new progressive democratic line in Korea is a multi-tiered and broad democratic concept, that must be attained in stages from the lowest stage up to the class liberation stage altogether through a joint national front, and that progressive democracy is a process of transition toward the elimination of the wartime division, and the path of coming to power of the progressive alliance.'

(4) Formation of the Respondent and Amendment to its Party Platform

The founding of the Respondent is as examined above, and through working-level negotiations among the leading players in its formation, the Democratic Labor Party, the People's Participation Party and the New Progressive Alliance, it was agreed to adopt a transitional platform based on an agreement made at a joint meeting, and to amend it after the April 2012 General Election. As for the reason why the transitional platform did not mention "progressive democracy," Jang ○-Seop, Secretary General of the Democratic Labor Party, who took part in the working-level negotiations on grand progressive consolidation explained that "There were many different opinions about the text of the platform. Therefore, we decided to adopt the agreement made at the May 31st joint meeting as the platform. Once the founding of the Unified Progressive Party is complete and we are through with the transition period, such as the 2012 General Election, we will start new discussions on how to amend the platform. Progressive democracy is something that should be able to gain sympathy within the newly constructed Unified Progressive Party."

The Respondent deliberated on, and passed a resolution for, the establishment of a committee for the amendment of the platform and a committee for the formulation and amendment of the party constitution

and regulations at a meeting of representatives on February 20, 2012. On March 12, 2012, the Platform Amendment Committee was formed, and Park ○-Soon presided over the meeting on behalf of the Chair of the Committee. On May 10, 2012, the proposed amendment of the platform was presented to the National Steering Committee as an agenda item, and a slightly modified version of the draft amendment prepared by the Platform Amendment Committee was finally submitted and unanimously approved without any particular objections or debates. Subsequently on May 12, 2012, the draft amendment to the platform was passed by the Central Committee in an unsettling atmosphere amidst violence that broke out surrounding measures to address the vote-rigging case in the primary for proportional representation candidates. That platform is the current platform of the Respondent.

(5) Reporting to, and Instructions from, North Korea About the Introduction of the 'Progressive Democracy' Platform

This Court examines below reports made by North Korean agents to North Korea, and North Korea's instructions regarding the process of introducing 'progressive democracy' to the Respondent's platform.

(a) Reports by North Korean Agents to the North Korean Government

Jang ○○ (Jang ○-Ho), a North Korean agent involved in the *Ilsimhoe* case, reported to North Korea about the discussions within the Democratic Labor Party on the introduction of progressive democracy in July 2006, as follows: "With regard to the popularization of the party platform, there were opinions pointing out the need to amend elements of the transitional platform or the compromised platform, which are socialistic in nature, based on the autonomy, democracy and unification line to make the platform realistic. Propagating the need to amend the party platform must precede the process of developing strategies for

seizing power and its line through the Strategy Committee for the Seizure of Power.”

(b) Instructions from North Korea

In February 2011, North Korea gave instructions to its agents operating in the Incheon region (who were involved in the so-called *Wangjaesan* case), to ‘Make progressive democracy, which has already been adopted by the Democratic Labor Party, the guiding ideology of the progressive grand unified party, and in case the term progressive democracy is unlikely to be accepted as it is, at least make the elements of progressive democracy, such as autonomy, equality, anti-war peace, democratic reform, solidarity and alliance with the entire national democratic groups and construction of a rich and powerful unified nation the guiding ideology.’ North Korea also gave instructions to the members of *Ilshimhoe* and *Wangjaesan* on, *inter alia*, the establishment of a permanent solidarity mechanism.

(6) Interim Conclusion

Facts found above show that persons from the Autonomy Faction, including Lee ○-Dae, Kim ○-Wook and Lee ○-Gyu (from ○○ Alliance), Park ○-Soon, Kim ○-Hyun, Lee ○-Yeop, Min ○-Ryeol and Jeong ○-Yeon (from ○○ Alliance), Oh ○-Yun and Jang ○-Seop (from ○○ Alliance), Choi ○-Young and Lee ○-Hun (involved in the *Ilshimhoe* case), and Kim ○-Gyo, Choi ○-Wook and Ryu ○-Jin (members of Action and Solidarity) urged or advocated for the introduction of progressive democracy within and around the Democratic Labor Party, and that they, as representatives of each of the above-listed factions, played leading roles in founding the Respondent. Also, as examined below, they opposed the efforts to expel Lee ○-Ki and Kim ○-Yeon around the time of the party split, and since they have been leading the party’s major decision-making process.

Meanwhile, at the "Closing Ceremony for the Victory of Truth Election Campaign Planning Headquarters (the **"Closing Ceremony for Victory Campaign HQ"**), held on August 10, 2012, to wrap up the results of the party officials' election immediately before the split of the Respondent, Lee ○-Ki remarked that, "Progressive democracy groups have established a popular progressive party line, set up a populist party movement for the peaceful unification front, and created the Progressive Party as a unified consolidated party. The incident of the Progressive Party is a class struggle by progressive democrats to seize political power." Hong ○-Seok (from ○○ Alliance), who had participated in the Rebellion Plot Meeting which will be examined subsequently, commented during a small group meeting for ideological study on May 8, 2013, that the "progressive democratic process is autonomy, democracy and unification. The origin of the word 'progressive democracy' could be traced to the work of the Leader in which he mentioned that our society should be constructed as a progressive democratic society. It is the origin of progressive democracy, and when we talk about democracy, we say that it should be progressive democracy. ... We decided to call it progressive democracy for now." These statements reveal the party's recognition of the group that had introduced progressive democracy, and that the attendees of the Rebellion Plot Meeting such as Lee ○-Ki and Hong ○-Seok, had also advocated for progressive democracy.

C. Inclination of the Respondent's Party Leadership

(1) Respondent's Leadership

As examined above, the Respondent was formed on December 13, 2011, through a merger of the Democratic Labor Party, comprised of the remaining party members after the First Split, the People's Participation Party, and the New Progressive Alliance, comprised of the party

members who left the New Progressive Party; and in September 2012, events such as the vote-rigging case in the primary for proportional representation candidates, and the violence at the Central Committee, led to the breaking away of members who had been former members of the New Progressive Alliance and the People's Participation Party, a number of party members from some of the Equality Factions that had remained after the First Split such as "Da-○○," the ○○ Alliance (Lee ○-Mi, Kim ○-Jin, etc.), the National Federation of Farmers (Kang ○-Gap, etc.), the KCTU (Choi ○-Min, etc.), and key figures such as Cheon ○-Se, Mun ○-Hyun and Choi ○-Yeop.

As a consequence, the members of the East Gyeonggi Alliance, the Gwangju Alliance and the Busan Ulsan Alliance, who had been pursuing the realization of progressive democracy, and other members with the same ideological aims (collectively, the "**Leading Group of the Respondent**") no longer faced the opposition of those groups that had kept them in check upon their leaving the Party, and as a result have been leading the party as the main decision-makers in line with their policies on major issues, including the appointment of party officials.

The fact that the Leading Group of the Respondent has been jointly leading the party is confirmed by the respective testimonies of witnesses Kwon ○-Gil and Roh ○-Chan regarding the hegemony of the Autonomy Faction, etc., within the Respondent; the testimony of witness Park ○-Sik that the group currently leading the Respondent is ○○ Alliance; the respective testimonies of witnesses Kim ○-Hwan, Lee ○-Hwa, Lee ○-Baek and Lee ○-Cheol that the Respondent is led by ○○ Alliance whose leading members are the former members of the National Democratic Revolution Party (the "**Democratic Revolution Party**"); and the fact that persons including Kim ○-Min, and Kim ○-Sik, a former Steering Committee member of "Da-○○" which had left the Respondent, criticized the occupation of party posts by those from the ○○ Alliance even before the Second Split.

Identifying the inclination of the Leading Group of the Respondent requires examination of the group's process of formation, stances and current activities toward North Korea, operational history, ideological aims, etc.

(2) Formation of the Leading Group of the Respondent

Among those who proposed or supported progressive democracy, Lee ○-Ki, Lee ○-Gyu, Park ○-Soon, Kim ○-Hyun, Lee ○-Yeop, Min ○-Ryeol, Jeong ○-Yeon, Jang ○-Seop, etc., were former members of the Democratic Revolution Party, Choi ○-Young and Lee ○-Hun were involved in the *Ilsimhoe* case, and Kim ○-Gyo, Choi ○-Wook and Ryu ○-Jin were involved in the Action and Solidarity case. Therefore, cases relevant to these individuals will first be examined.

(a) The Anti-Imperialist Youth Alliance and the Democratic Revolution Party Incident

1) Around March 3, 1989, Kim ○-Hwan, Lee ○-Ki, Ha ○-Ok, and others adopted Kim Il-Sung's *Juche* ideology as their guiding ideology to form the "Anti-Imperialist Youth Alliance," a youth revolutionary organization operating under the guidance of General Kim Il-Sung and the Korean National Democratic Front, with the following objectives for their struggles: 'Since Korea is a colonial semi-capitalist society, harshly ravaged by American imperialistic invaders and their stooges, formation of a national unified front to drive out American imperialism, then an overthrow of the current government to establish a national, autonomous regime (completing NLPDR), formation of a unified federation with North Korea, and establishment of a socialist nation.' Lee ○-Gyu, Park ○-Soon, Lee ○-Yeop, Han ○-Jin, Park ○-Hyeong, Jo ○-Won, Jeong ○-Yeon, Jang ○-Seop, and others worked as members of the Anti-Imperialism Youth Alliance and subsequently as members of the Democratic Revolution Party.

2) Meanwhile, Kim ○-Hwan, Ha ○-Ok, Lee ○-Ki, and others thought the "Anti-Imperialism Youth Alliance" had reached its limit, and decided to transform the alliance into a political party to conduct nationwide operations. On March 16, 1992, they formed the Democratic Revolution Party, operated under North Korea's instructions on matters such as the naming of the party. The platform of the Democratic Revolution Party likewise found its guidance from Kim Il-Sung's *Juche* ideology, and defined the character of the party by stating that, "Operating under the immediate goals of gaining national autonomy, advancing democracy, and peacefully unifying the homeland since the current South Korean society is a colonial semi-capitalist society, and adopting anti-American autonomy and anti-fascist democratization as the line for struggle using the forces of workers, farmers, the intelligentsia, students, the urban petit-bourgeoisie, and small-scale capitalists, an underground vanguard party of workers and farmers for the purpose of accomplishing NLPDR." The method of staging the revolution was to seize control over organizations or groups of enterprises, students, farmers, youths, etc., and lead them into anti-government struggles, and construct a socialist government through violent struggles.

Kim ○-Hwan, a Central Committee member of the Democratic Revolution Party, joined the Workers' Party of Korea, illegally entered North Korea twice, met Kim Il-Sung, and received operating funds, while Ha ○-Ok joined the Workers' Party of Korea at the recommendation of Kim ○-Hwan and was awarded a medal by North Korea. Also, members of the Democratic Revolution Party held ceremonies to celebrate birthdays of Kim Il-Sung and Kim Jong-Il, sent essays, personal diaries, poems, etc., praising Kim Il-Sung, and studied the *Juche* ideology on a continual basis, and submitted the so-called "Self-Criticism Reports" to Central Committee member Kim ○-Hwan, criticizing their works and daily lives. The members began each ideology study with a silent tribute to Kim Il-Sung and Kim Jong-Il, with some writing and submitting "Self-Criticism Reports," vowing to devote their

lives to General Kim Jong-Il as faithful warriors.

Under the central leadership of Kim ○-Hwan, Ha ○-Ok and Park ○-Seop (Lee ○-Ki became a Central Committee member at a later time), the Democratic Revolution Party installed the provincial South Gyeonggi Chapter, Yeongnam Chapter, and Jeonbuk Chapter, regional chapters (Ulsan, Seongnam, Busan and Masan-Changwon), and functional chapters for operational leadership (Youth Movements, Unification Movements, Civic Organizations, Student Movements, and Southern Metropolitan Area).

Lee ○-Ki served as Chair of the South Gyeonggi Chapter of the Democratic Revolution Party, Lee ○-Gyu oversaw the Southern Metropolitan Area under the guidance of Lee ○-Ki, and Kim ○-Hee was a member of the *Teosarang* Youth Association, an organization directed by the Democratic Revolution Party. Min ○-Ryeol and Yu ○-Hee were also members of the Democratic Revolution Party or its low-level affiliated groups, while Hong ○-Gyu was the leader of ○○ University Patriotic Youth Spearhead directed by the Democratic Revolution Party. Jeong ○-Ju, Han ○-Jin, Jo ○-Won, Park ○-Hyeong and Lee ○-Hun, etc., were members of the South Gyeonggi Chapter of the Democratic Revolution Party; Lee ○-Yeop and Park ○-Soon were Chairs of the Yeongnam Chapter (Busan Chapter, Ulsan Chapter, etc.), a regional sub-organization of the Democratic Revolution Party; Kim ○-Hyun, Bang ○-Su and Jeong ○-Yeon were members of the Yeongnam Chapter; and Jang ○-Seop was a member of the Democratic Revolution Party operating in the Gwangju-Jeonnam area.

The Democratic Revolution Party and the so-called "Yeongnam Chapter" were declared by the court as anti-government or enemy-benefitting organizations, and in connection with the case, Ha ○-Ok, Lee ○-Ki, Lee ○-Yeop, Han ○-Jin, Park ○-Soon, Bang ○-Su, Kim ○-Hyun, etc., were found guilty and convicted for violation of the

National Security Act.

(b) Other Incidents Involving the Leading Group of the Respondent

1) *Ilsimhoe* Case

Jang ○○ (Jang ○-Ho) received instructions from North Korean agents to, *inter alia*, form a secret organization in South Korea, and collect and report intelligence. In 2001, Jang ○○ recruited Son ○-Mok and a Democratic Labor Party member Lee ○-Hun, and in January 2002, organized *Ilsimhoe*, guided by the *Juche* ideology, and with the objectives of rooting out American imperialism in the Republic of Korea and realizing a federalized unification. In 2005, Jang ○○ recruited Choi ○-Young, the Chief of Staff (who later became Deputy Secretary General) to the Democratic Labor Party floor leader in the National Assembly.

Choi ○-Young and Lee ○-Hun contacted North Korean agents, and conducted operations as instructed by North Korea, including handing over intelligence such as trends within the Central Committee of the Democratic Labor Party and personal information of the Chairs of metropolitan, provincial, and regional chapters, even resulting in a Medal of Efforts awarded to Lee ○-Hun by North Korea. Those involved in the *Ilsimhoe* case at the time reported to North Korea that Lee ○-Gyu was "a comrade firmly committed to the *Juche* ideology," and that Kim ○-Dong "in reality has an East Gyeonggi Regional Alliance inclination ... often talks about the North's military-first policy, but his level of understanding goes little beyond the theory of national autonomy movements from the 1980s," and that Lee ○-Dae was a person "sometimes described by the East Gyeonggi Regional Alliance as the leader" and with regard to North Korea's instruction to "put up Lee ○-Dae from the East Gyeonggi Regional Alliance as Chair of the Policy Committee" for the election of second-term party officials of the Democratic Labor Party, situations were regularly reported to North

Korea, and Lee ○-Dae was actually elected as Chair of the Policy Committee in that election. For this case, Choi ○-Young, Lee ○-Hun, Son ○-Mok, etc., were found guilty and convicted of violation of the National Security Act.

2) The Action and Solidarity Incident

Action and Solidarity was formed on October 21, 2000, and based on North Korea's theory on revolutionary movements in Korea, NLPDR (National Liberation and People's Democracy Revolution), views South Korean society as a "colonial semi-capitalist society under American imperialism," and the United States as the main culprit that caused the permanent division of Korea, and sees the course of South Korean revolution as the withdrawal of U.S. military forces from South Korea → establishment of an autonomous democratic government → accomplishment of a federalized unification, and regards the instilling of the autonomous ideology, to wit the *Juche* ideology, in the people as a top-priority task for revolutionary movements in South Korea in order to accomplish South Korean revolution. Action and Solidarity operated in direct connection with North Korea, including receiving instructions from North Korean agents, adopted special resolutions and general lines, etc., that propagated and sympathized with the content of North Korea's New Year's Joint Resolutions, and explicitly praised and glorified Kim Jong-Il and North Korea's military-first politics, and actively propagated the propriety of North Korea's nuclear tests. Park ○-Soon opened "2006 The Second June 15th School" with members of Action and Solidarity, and on August 25, 2006, praised Kim Jong-Il's military-first politics during the "Special Lecture 2: Understanding North Korean Society." In addition, Action and Solidarity and the Respondent joined and operated together as members of the Korea Alliance for Progressive Movement, a permanent solidarity organization mechanism.

Action and Solidarity has been declared by the court as an enemy-benefitting organization, and Kim ○-Gyo served as standing

representative of Action and Solidarity. In addition, Choi ○-Wook, Mun ○-Hwan, Kwak ○-Gi and Jang ○-Jun, members or instructors of the Party Member Education Committee of the Respondent, were also members of Action and Solidarity, and for this case Kim ○-Gyo, Choi ○-Wook, Mun ○-Hwan and Kwak ○-Gi were found guilty and convicted for violation of the National Security Act.

3) The "Korea Youth Movement Council" Incident

A cooperative body of youth organizations founded in February 2001, and operating under North Korea's NLPDR, the Korea Youth Movement Council defined Korean society as a colony of American imperialism; opposed unwarranted foreign interference such as the United States that infringes on national autonomy; asserted anti-Americanism, eradication of anti-unification and conservative forces, and achievement of federalized unification of the homeland, as goals for its struggles; and proposed for its struggles' aims the anti-American struggles for the withdrawal of U.S. military forces, abolition of the National Security Act, and the formation of the National Democratic Front.

Lee ○-Gyu served as Chair of the Emergency Measure Committee of the Youth Movement Council, and Kim ○-Gyo served as its Auditor. Wu ○-Young was the Chair of the Preparatory Committee for the Youth Movement Council; Hong ○-Seok was the Vice Chair of the Youth Movement Council; and Yu ○-Hee, Yun ○-Bae, and Kim ○-Rae, etc., were also members of the Youth Movement Council. The majority of the above-mentioned members of the Youth Movement Council attended the meetings involving an alleged rebellion plot organized by Lee ○-Ki. The Youth Movement Council was declared by the court as an enemy-benefitting organization, and its key members were found guilty and convicted for violation of the National Security Act in this case.

(c) Subsidiary Organizations of the Democratic Revolution Party

On December 15, 1993, Kim ○-Hwan, a Central Committee member of the Democratic Revolution Party, reported to North Korea that subsidiary organizations managed directly by organs of the Democratic Revolution Party included Teosarang Youth Association, the Ulsan Alliance, ○○ University Patriotic Youth Spearhead, and ○○ University Patriotic Youth Spearhead; that the Democratic Revolution Party could exert strong influence over regional organizations in Jeonbuk, Ulsan, and Seongnam areas, and that the Democratic Revolution Party had complete control over the Youth Movement Council and its affiliates, such as the *Hanmulgyeol* Youth Association, the Seongnam *Teosarang* Youth Association, and the National Alliance and its affiliates including the Busan Alliance, the Ulsan Alliance and the Jeonbuk Alliance; and thereafter reported that "The Party exercises decision-making power through members in the Ulsan Alliance, and the Seongnam Alliance, etc., that Han ○-Jin, a member of the Democratic Revolution Party, plays a key role in the ○○ Alliance, and that the Party has absolute control over ○○ Alliance where Jeong ○-Yeon, a member of the Democratic Revolution Party, serves as Chair of its executive committee." The Democratic Revolution Party's South Gyeonggi Chapter Chair Lee ○-Ki's "First 1994 Biannual Report on the Work of South Gyeonggi Chapter" to Kim ○-Hwan also reported that the Democratic Revolution Party created the ○○ Seongnam Alliance of Youth Organizations as part of its operations, the leadership of Seongnam Alliance strengthened to become the dominant force over the Seongnam Council of Representatives of Youth Organizations, and that the operations of the East Gyeonggi Alliance had been stabilized.

The East Gyeonggi Alliance, a regional organization of the National Alliance, was formed in 1997 on the basis of the Seongnam Alliance, mainly comprised of youth organizations in the Seongnam area, such as the *Teosarang* Youth Association, the Seongnam Youth Association and

the Seongnam Alliance of Youth Organizations; Jeong ○-Ju, Han ○-Jin, Jo ○-Won and Park ○-Hyeong, members of the Democratic Revolution Party, served as Chairs, etc., of the *Teosarang* Youth Association, the Seongnam Youth Association, etc., operated by the Democratic Revolution Party, and Han ○-Jin served as Chair of the ○○ Alliance.

Furthermore, the fact that the Democratic Revolution Party exercised influences over the East Gyeonggi Alliance as described above is further confirmed by the list of attendees at the Rebellion Plot Meetings led by Lee ○-Ki. In addition to persons involved in the Democratic Revolution Party such as Lee ○-Ki, Jeong ○-Ju, Han ○-Jin, Cho ○-Won, Park ○-Hyeong, Kim ○-Hee and Hong ○-Gyu, the meeting was attended by those who had worked as key members, including heads of organizations belonging to ○○ Alliance or ○○ Alliance, such as the *Teosarang* Youth Association, the Bundang Youth Association, and the Seongnam Youth Association directed by the Democratic Revolution Party, including Wu ○-Young (Aide to National Assembly member Lee ○-Ki), Kim ○-Chang (Aide to National Assembly member Kim ○-Hee and Secretary General of the Former Democratic Revolution Party Case Response Committee), Kim ○-Gon (Aide to National Assembly member Kim ○-Yeon), Shin ○-Wook (member of the Party Member Education Committee and Chair of the Party's Election Committee), Hong ○-Seok (Vice Chair of the Gyeonggi Chapter), Kim ○-Rae (Vice Chair of the Gyeonggi Chapter), Lee ○-Ho (Advisor to ○○ Progressive Solidarity), Kim ○-Yeon (National Assembly member), Han ○-Geun (Chair of the Election Committee of the Gyeonggi Chapter), Kim ○-Seon (Secretary to National Assembly member Lee ○-Ki.), Yim ○-Gyeong (Aide to National Assembly member Kim ○-Hee), Yun ○-Bae (member of the party's external cooperation committee), and others also attended the meetings.

Also, it is admitted that Park ○-Soon, Lee ○-Yeop, Kim ○-Hyun, Bang

○-Su, Min ○-Ryeol and Jeong ○-Yeon, members of the

Democratic Revolution Party, operated in ○○ Alliance, a regional organization of the National Alliance, and that Jang ○-Seop, a member of the Democratic Revolution Party, operated in ○○ Alliance, a regional organization of the National Alliance, and Oh ○-Yun (floor leader) and Kim ○-Dong (former National Assembly member) have operated in said ○○ Alliance.

(3) The Leading Group of the Respondent's Stance Towards North Korea and its Activities

(a) The Leading Group of the Respondent has the same ideological disposition, and has been jointly driving party decision-making process since their days of membership with the Democratic Labor Party, on major agenda items such as the amendment of the platform, the North Korean issue, handling of those involved in the *Ilsimhoe* case, and elections for party officials.

1) As examined above, the Leading Group of the Respondent worked to introduce progressive democracy to the Democratic Labor Party's platform since around 2002, continually urged the establishment of a permanent solidarity mechanism based on progressive democracy, and worked aggressively to introduce progressive democracy, ranging from the creation of the Respondent to the amendment of its platform.

2) The Leading Group of the Respondent consistently advocated North Korean positions regarding North Korean issues, including North Korea's nuclear tests and armed provocations against South Korea.

First, with regard to nuclear issues, Lee ○-Dae (former Policy Committee Chair) said on October 3, 2006, that North Korea's nuclear weapons were means of self-defense against pressures from the United States; and during an 'Anti-War Peace Rally for Denuclearization of the Korean Peninsula,' held at the National Assembly on October 24, 2006,

Kim ○-Dong (former National Assembly member) claimed that "North Korea developed nuclear weapons for deterrence against nuclear weapons of the United States." Park ○-Soon (Vice President of ○○ Research Institute) published an article arguing that "The only way for North Korea to survive is possessing nuclear power for retaliation; and North Korea, as a state armed with nuclear weapons, now has the strength and power to lead the process of bringing peace to Korea with its own deterrent." Kim ○-Hyun (former Secretary General) said in an interview with Cho ○-Su on December 30, 2007, "The United States is responsible for North Korea's nuclear tests, and its nuclear threat against North Korea is the reason for North's nuclear armament." With regard to North Korea's threat to launch preemptive nuclear attacks, Ahn ○-Seop (Secretary General and Supreme Council member) said that, "The United States has conducted over 1,000 nuclear tests, but only North Korea is a problem when it has conducted only three tests." Kim ○-Hee (a National Assembly member) commented on North Korea's launch of long-distance missile in December 2012, that "The launch of a satellite is a sovereign right under the Outer Space Treaty," and opposed the December 7th, 2012 Resolution adopted by the Foreign Affairs and Trade Committee of the National Assembly, urging North Korea to stop the launch of long-distance rockets, stating that, "if a resolution is adopted by the U.N. Security Council, that would only be a repetition of the vicious circle of the past." Lee ○-Gyu (National Assembly member) said in a media interview on May 24, 2012, that "I understand why North Korea has no choice but to possess nuclear weapons."

Meanwhile, at the Rebellion Plot Meeting on May 12, 2013, Lee ○-Ki (National Assembly member) made remarks advocating North Korea's launch of missiles and nuclear tests: "(The North Korean) Kwangmyongsong-3 satellite is a remarkable event in the history of space science. The best revolutionary expression of (North Korea's) self-reliance and hard fortitude is the Kwangmyongsong-2 satellite, which was a victory

of space science," "The Kwangmyongsong-3 satellite is a

historic event of December 12, 2012, and the nuclear test on February 12, 2013, this third nuclear test, is great and tremendous," "the North succeeded in making nuclear weapons smaller, lighter, and more diverse through the third nuclear test, and what's more, North Korea emerged as a threat with a degree of precision that can hit even the US mainland," "let's shoot, it is proper to shoot. Nuclear weapons, what's wrong with it, it is the pride of the nation," and going as far as to describe the Korean War as a liberation war, a great turning point for the nation, commenting that, "Mao Zedong's son lost his life in the June 25 Liberation War. Numerous Chinese leaders rushed into our nation's great turning point; we have a history of victory won by blood."

With regard to North Korea's armed provocations, in a radio program "Open Forum" on ○○ Radio Station on August 4, 2010, and on other occasions, Lee ○-Hee (Party Leader) remarked about the torpedoed sinking of the warship *Cheonan* that, "Whether or not the North did it is questionable. If the North did it, we must hold the North accountable, but still, the issue should be resolved by way of reconciliation and cooperation, not by confrontation; and the alleged attack on the warship *Cheonan* by the North is not a confirmed fact." On November 24, 2010, Lee ○-Hee wrote about the bombardment of *Yeonpyeong* island on Twitter, stating that "The Government must clearly see the consequence of aggravating inter-Korean relations." In fact, Kim ○-Hee (National Assembly member) condemned our government for North Korea's armed provocations on November 23, 2012, commenting "The bombing of *Yeonpyeong* island is an unfortunate tragedy spawned by the Lee Myung-Bak Administration's hostile policy against the North."

3) With regard to the issues regarding human rights and third-generation power succession in North Korea, the Leading Group of the Respondent argues that the issues should be understood from the North Korean standpoint, and should not be criticized.

First, with regard to human rights issues in North Korea, in a lecture about human rights in North Korea on February 2, 2005, Kim ○-Gyo (Supreme Council member) remarked that "Human rights claimed by organizations supporting North Korean defectors is like advocating the continuance of the Cold War on the Korean Peninsula, and ultimately waging war. Human rights issues seem to be used by them as a tool," and recommended that "the United States and the organizations instigating planned defections from North Korea, confess that their real objectives are regime change in the North and the overthrow of the North's regime." Lee ○-Dae (former Chair of the Policy Committee) said on December 19, 2005, that "The essence of the human rights offensive against the North is an attempt to launch a new offensive using human rights issues (in the North) as a weapon, in the face of failing US political and military offensives. Main subjects of the human rights offensive against the North are 90 percent fabrication and 10 percent truth," and Lee ○-Hee (party leader) in discussing the proposed bill for the North Korean Human Rights Act on February 27, 2010, stated that "Its intention is to use human rights as a means of humiliating North Korea in the international community," and added during an interview with ○○ Radio on August 4, 2010, that human rights issues in North Korea are false or fabricated, adding that, "If there is anything confirmed as truth regarding human rights issues in the North, I am more than willing to comment on, talk about, and criticize the issues. It is right to talk about the issues any time, as long as they are confirmed to be true."

Next, with regard to the third-generation power succession in North Korea, Lee ○-Hee (party leader) stated that "Mentioning the North's power structure issues will immediately worsen the inter-Korean relationship. Political circles and the media must refrain from talking about North Korean leaders." Park ○-Soon (Vice President of Progressive Policy Research Institute) presented an article at ○○ Research Institute's forum on October 7, 2010 to the effect that: "It is

not a rational approach to absolutize the sole logic that a son should not become the successor, and to brand any act not condemning it as '*chinbuk*' or '*jongbuk*' (pro-North Korea or North Korea-following). Considering that Kim Jong-Il was 26 when he played an active role in the purge of the Gapsan faction, the emergence of Kim Jong-Un cannot be viewed as too early (28 or 29 years old?). According to North Korea's succession theory, instead of being based on pedigree, the only criteria to determine the successor is whether the person has the qualities and capabilities as the supreme leader, including loyalty to the Leader Kim Il Sung, political leadership, theoretical capabilities, political judgment, boldness and temperament as a politician, devotion to the people and morality as the supreme leader. Based on the principle of non-intervention in internal affairs, North Korea's succession is also strictly a core internal matter."

Kim ○-Dong (former National Assembly member) declined to answer when asked for an opinion by a candidate from another party on the third-generation power succession in North Korea during a debate among candidates for National Assembly members on April 18, 2011. In a media interview on May 22, 2012, Lee ○-Gyu (National Assembly member) declined to answer a question regarding 'human rights in North Korea, North Korean nuclear issues and third-generation power succession,' stating that, "It is unfortunate that the phrase 'North Korean-sympathizer' is widely used. Verification of ideological dispositions, which is still prevalent today, is tantamount to suffocating the freedom of conscience."

4) And as discussed above, members from the Autonomy Faction, such as Kim ○-Hyun and Kim ○-Gyo, formed the main opposition to the expulsion of the persons involved in the *Ilshimhoe* case, scrapping the above-mentioned draft innovation plan, and preventing the expulsion of Choi ○-Young and Lee ○-Hun, eventually resulting in the splitting of the Democratic Labor Party.

5) Kim ○-Dong shot tear gas at a plenary session of the National Assembly on November 22, 2011, protesting the ratification of the Korea-US Free Trade Agreement, wherein Hong ○-Seok, then-Aide to Kim ○-Dong, gave the bag containing the tear gas to Kim ○-Dong, and Party Representative Lee ○-Hee actively supported Kim ○-Dong, comparing him to patriots Yun Bong-Gil and Ahn Jung-Geun.

(b) Even in elections for party officials, the Leading Group of the Respondent arranged persons belonging or friendly to the Leading Group to be elected as key party officials through a so-called "*Setting Election*," participating in campaigns for major elections such as the General Elections. For example, when Oh ○-Yun ran for the 19th General Assembly election, Lee ○-Ki went to the constituency of Oh ○-Yun and personally ran the election campaigns, and the company actually managed by Lee ○-Ki orchestrated Oh ○-Yun's election campaigns. Also, when Kim ○-Dong ran for the 19th General Election, ○○ Research Institute, technically operated by Lee ○-Ki, participated in conducting polls. In addition, the fact that Lee ○-Ki, a new party member at the time, won 1st place in a primary for the general proportional representation list, held ahead of the 19th General Election, to determine the order of candidacy for proportional representatives, with nearly a half of valid votes from Gyeonggi-do and Gwangju (Honam) demonstrates that the East Gyeonggi Alliance and the Gwangju-Jeonnam Alliance, etc., within the Respondent jointly supported Lee ○-Ki.

(c) Even during the controversy over the proposed expulsion of Lee ○-Ki and Kim ○-Yeon after the vote-rigging case in the primary for proportional representation candidates, the Leading Group of the Respondent actively advocated Lee ○-Ki and Kim ○-Yeon, forming a separate Emergency Committee of party members, and acted together in opposing their expulsion. In the election for party officials in July 2012, and in the course of the subsequent split of the Party, the Busan-Ulsan

Alliance joined forces with the East Gyeonggi Alliance and the Gwangju-Jeonnam Alliance that opposed the expulsion of Lee ○-Ki and Kim ○-Yeon, and jointly opposed the expulsion of Lee ○-Ki, etc., finally resulting in the splitting of the Respondent.

(d) Regarding the Rebellion Plot Meetings, which will be examined subsequently, the Leading Group of the Respondent repeated its argument that those allegations had been fabricated by the Government, and Oh ○-Yun, as floor leader, claimed in a speech before the National Assembly, "RO is only a fiction created by the National Intelligence Service and prosecutors." In addition, the Respondent nominated more than 30 persons who were attendees at the Rebellion Plot Meetings, as candidates for National Assembly or local council members, etc.

(4) The Leading Group's Dominance Over the Respondent, and Ideological Uniformity

(a) As examined above, after the Second Split, the Leading Group of the Respondent became able to jointly lead the party, making decisions on major issues, including the appointment of party officials, in line with their policies. The key party officials appointed in practice by the Leading Group of the Respondent, and their record of activities will now be examined.

First, Lee ○-Ki, Lee ○-Gyu and Kim ○-Hee, three out of five National Assembly members of the Respondent, were former members of the Democratic Revolution Party or organizations directed by the Democratic Revolution Party, and were from the ○○ Alliance. National Assembly member Kim ○-Yeon attended the Rebellion Plot Meetings, and claimed to be a member of the ○○ Alliance in supporting Lee ○-Ki. National Assembly member Oh ○-Yun, and former National Assembly member Kim ○-Dong, are from the ○○ Alliance, in which

Jang ○-Seop, a member of the Democratic Revolution Party, operated as a key member; they have been critical of opposition factions, taking the same stance as that of the ○○ Alliance on major issues, such as the vote-rigging case in the primary for proportional representation candidates, the violence in the Central Committee, and the Rebellion Plot Case. As seen above, all of the members of the Respondent in the National Assembly are from either the ○○ Alliance or the ○○ Alliance.

Party Representative Lee ○-Hee joined the Democratic Labor Party in 2008 after the majority of the Equality Faction left the Democratic Labor Party, and served as the Party's proportional representative member at the 18th National Assembly, and the Chair of the Party's Policy Committee. Since being elected as Party Representative in the election for Democratic Labor Party officials in July 2010, Lee ○-Hee has held that position for nearly four years, excepting a short period of time. In particular, Lee ○-Hee was elected to that post in February 2013 with an overwhelming 90 percent support in an election held after the Second Split. Thereafter, Lee ○-Hee appointed Lee ○-Gyu and Ahn ○-Seop, who were from the ○○ Alliance, as Chair of the Policy Committee, and the Secretary General, respectively, and took the same stance as the ○○ Alliance on major issues of the Party, including the Rebellion Plot Case. Sim ○-Jung, a former co-representative of the Party, criticized Lee ○-Hee after violence broke out at the Central Committee meeting, stating that "A kind of an underground government exists (within the Respondent). After the merger, I saw that what propped up Party Representative Lee ○-Hee was not the regular political procedural order of the Party but a factional structure."

Lee ○-Gyu, Chair of the Policy Committee, was a member of the Democratic Revolution Party. Ahn ○-Seop, Secretary General, studied the *Juche* ideology as will be discussed subsequently. Hong ○-Gyu, spokesperson, operated in an organization directed by the Democratic

Revolution Party, and attended the Rebellion Plot Meetings. All of them are classified as the ○○ Alliance. Oh ○-Yun, floor leader at the National Assembly, is from the ○○ Alliance.

Supreme Council members Min ○-Ryeol and Yu ○-Hee were members of the Democratic Revolution Party or of affiliated subsidiary activist organizations. Min ○-Ryeol is from the ○○ Alliance, Yu ○-Hee is classified as the ○○ Alliance given that Yu ○-Hee attended a number of meetings held by main figures of the ○○ Alliance and had claimed 'Lee ○-Ki is my spiritual mentor,' and Oh ○-Yun is from ○○ Alliance as examined above. Supreme Council member Ahn ○-Seop studied the *Juche* ideology with Lee ○-Yun and Lee ○-Ho in an organization led by Lee ○-Ki during the period from around 2005 to around 2009, and had also attended the "Unified Progressive Party Rally for Officials Election Candidates" on June 21, 2012, around the time he ran for Chair of the Gyeonggi Chapter of the Unified Progressive Party, where members of the ○○ Alliance, including Lee ○-Ki, Lee ○-Ho, Hong ○-Seok and Cho ○-Won, gathered.

Supreme Council member Kim ○-Gyo served as the standing representative of Action and Solidarity, an enemy-benefitting organization, and operated the enemy-benefitting organization Youth Movement Council, with Lee ○-Gyu, Yu ○-Hee, Kim ○-Rae and Hong ○-Seok and others (who were from the ○○ Alliance), and actively supported Lee ○-Ki and Kim ○-Yeon around the time of the vote-rigging case in the primary for proportional representation candidates. As examined above, five out of the Supreme Council members of the Respondent are from the ○○ Alliance, the ○○ Alliance or the ○○ Alliance, or involved in Action and Solidarity. Also, the two recommended positions for Supreme Council members must be recommended by the Party Representative, the floor leader and five elective Supreme Council members, and given that the Party Representative, the floor leader, and most elective Supreme Council

members were from the ○○ Alliance or had strong ties to it, it would be reasonable to infer that the two Supreme Council members (Jeong ○-Seong and Choi ○-Gwon) recommended by those persons are also influenced by the ○○ Alliance.

○○ Research Institute, the Respondent's policy research institute, was established for the research and development of medium to long-term policies, while the Party Member Education Committee serves an important internal party function of providing member education on basic party ideology and policies. Among their key members, ○○ Research Institute's President Lee ○-Gyu, and its Vice President Park ○-Soon, who had played a leading role in the formulation of the Respondent's platform, were members of the Democratic Revolution Party; Choi ○-Young, head of the Policy Planning Office, was punished for the *Ilsimhoe* case; and Director Wu ○-Young attended the Rebellion Plot Meetings. Kim ○-Gyo, Chair of the Party Member Education Committee, was punished as the standing representative of Action and Solidarity, an enemy-benefitting organization; Committee members Park ○-Soon, Lee ○-Yeop and Bang ○-Su were members of the Democratic Revolution Party; Committee member Ahn ○-Seop studied the *Juche* ideology as examined above; and Committee member Shin ○-Wook attended the Rebellion Plot Meetings. Also, Committee member Lee ○-Hun and Committee instructor Son ○-Mok were punished for the *Ilsimhoe* case; and Mun ○-Hwan, Kwak ○-Gi, and Jang ○-Jun, members or instructors of the Committee, were punished as members of Action and Solidarity, an enemy-benefitting organization. Key officials and instructors of the ○○ Research Institute and the Party Member Education Committee were involved in the Democratic Revolution Party or in the alleged rebellion case, and were members of the ○○ Alliance or the ○○ Alliance, or were involved in the *Ilsimhoe* case or the case involving Action and Solidarity, an enemy-benefitting organization.

Park ○-Jeong, Chair of the Youth Committee, and Yun ○-Bae, a

member of the External Cooperation Committee, attended the Rebellion Plot Meetings, and a considerable number of Chairs and Vice Chairs in the Gyeonggi region, including Kim ○-Yeol, Chair of the Gyeonggi Chapter, and Hong ○-Seok, Kim ○-Rae and Jeong ○-Ju, Vice Chairs, attended the Rebellion Plot Meetings. All of them can be categorized as the ○○ Alliance.

As for Central Committee members, Kim ○-Yeol was asked by counsel at the first level trial court for the case involving the alleged rebellion plot, "whether the Closing Ceremony of the Victory of Truth Headquarters on August 10, 2012, was an occasion to encourage and console each other for the successful outcome of the election for party officials in July 2012, winning more than 50 percent of Central Committee members, saving National Assembly members Lee ○-Ki and Kim ○-Yeon, and preventing punishment of party members against whom accusations were filed with the disciplinary committee of the Party," to which Kim ○-Yeol answered, "Yes, it was," and in view of this fact, it can be inferred that the ○○ Alliance and its supporters took more than half of the seats at the Central Committee during the election for party officials in July 2012, prior to the Party's Second Split. Also, according to witness Lee ○-Yun's testimony, most of the Central Committee members elected for party officials in the February 2013 election after the Party's split belonged to the ○○ Alliance, ○○ Alliance and ○○ Alliance, and the 16,000 to 17,000 votes they jointly won indicate the scale of supporters centered around East Gyeonggi, which is said to be enough to dominate the entire decision-making of the Party.

(b) To summarize the facts found above, key officials of the Respondent were mostly comprised of key members of the East Gyeonggi Alliance, the Gwangju-Jeonnam Alliance and the Busan-Ulsan Alliance, to whom members of the Democratic Revolution Party or organizations it directed belonged, and with whom the party members

shared ideological aims and were influenced by them, i.e., the Leading Group of the Respondent. Whereas in the past before the Second Split, various political factions, such as the Autonomy Faction, the Equality Faction, the former members of the People's Participation Party and the former members of the New Progressive Unification Solidarity, with different ideologies and political lines co-existed, and mutually critiqued and held each other in check, there is no or very little voice critiquing the policies or line of the party within the Respondent, and as a result, given that major decisions within the Party, such as elections for party officials, are being made with unanimous or nearly unanimous consent, it can be ascertained that the Leading Group of the Respondent with the same ideology leads the Respondent.

(5) The Proclivity of the Respondent's Leadership

As examined above, the majority of the Leading Group of the Respondent are key members of the East Gyeonggi Alliance, the Gwangju-Jeonnang Alliance and the Busan-Ulsan Alliance, and shared a history of proposing autonomy, democracy and unification lines based on the *Juche* ideology as their guiding ideology at such organizations as the Democratic Revolution Party, the Yeongnam Chapter, Action and Solidarity, *Ilsimhoe*, the Youth Movement Council, etc., and sympathized with North Korea's claims or operated in collaboration with North Korea. In addition, as seen below, most of them attended the Rebellion Plot Meetings led by Lee ○-Ki, where they discussed means of harassing the rear front upon outbreak of war, including destruction of national infrastructures, manufacture and extortion of weapons, and disruption of telecommunications.

Key officials of the Respondent, selected in practice by the Leading Group of the Respondent, demonstrated unconditional support for North Korea solely based on its positions and actions with regard to issues such as development of nuclear weapons, human rights and

third-generation power succession, while irrationally condemning the Government of the Republic of Korea for North Korea's armed provocations. Even in the *Ilsimhoe* case, although acts of the persons involved in the case obviously constituted acts harmful to the political party by undermining its autonomy and independence, the Leading Group of the Respondent did not take any action against them on the ground that the National Security Act needed to be abolished and was unacceptable, and allowed them to maintain key positions within the Party.

Such inclinations were revealed more plainly in the alleged rebellion case, as will be discussed subsequently. As will be examined below in further detail, some of the attendees at the above-mentioned meetings have been studying the *Juche* ideology through North Korean films, books, etc., for a long time and have been attending small gatherings in which they propagated and glamorized Kim Il-Sung's anti-Japanese armed struggles, and when the threat of armed provocations by North Korea escalated with events such as North Korea's unilateral abrogation of the Armistice Agreement, most of the attendees at the meetings defined the Republic of Korea as their enemy, and even discussed schemes in support of North Korea to destroy national infrastructures, manufacture and extort weapons, interfere with telecommunications, and stage information and propaganda warfare. Moreover, after the prosecution of the above-mentioned case, the Respondent transformed the party's structure into "Headquarters for Struggles Against Fabricated Rebellion Plots, Disbanding the National Intelligence Service, and Defending Democracy." Key officials of the party, including party leader, floor leader at the National Assembly, Supreme Council members and Chairs of metropolitan and provincial chapters, urged the acquittal and release of Lee ○-Ki and others, and fervently supported Lee ○-Ki and others involved in the rebellion case at a party-wide level by encouraging party members to write petitions, and condemning the Government for fabricating the rebellion case.

Based on the overall circumstances, including the process through which the Leading Group of the Respondent was formed, its stance towards North Korea, and its activities, operational history and ideological congruity, it is reasonable to view the Leading Group of the Respondent as having an inclination of following North Korea.

D. The Respondent's Progressive Democracy

The Respondent's platform states its ideological aim as realizing "progressive democracy," but the concept of "progressive democracy" has been interpreted diversely depending on historical circumstances and the user of the term, as has been the tasks cited in the Respondent's platform, "autonomy, democracy and unification."

Therefore, in order to understand the actual meaning of "progressive democracy" and the tasks of "autonomy, democracy and unification," it is necessary to examine how the current Leading Group of the Respondent perceives and understands them, and what ideological aims it pursues. Although a political party exists as an independent, unincorporated association whose ideological inclinations or aims are distinguished from those of its individual members, a political party is an association of persons who share the same political aims, and who actually perform its activities, and therefore the ideological inclinations and aims of the leading group of the political party are inevitably in line with what the party pursues.

(1) References for Judgment

To understand the actual meaning of "progressive democracy" under the Respondent's platform, the platform, as well as "Commentaries on the Platform," "Commentary on Party Policies of Progressive Democracy," "Declaration of the 2013 Party Policy Convention,"

"Advance Forward with People Resolution of the 2014 Party Policy Convention and Subcommittee Discussions ("**2014 Advance Forward with People**")," and "Collection of Policy Pledges of the Democratic Labor Party for the 17th Presidential Election in 2007 ("**Collection of Pledges for the 17th Presidential Election**")," serve as references for judgment as being the official documents of the party.

In addition, the following serve as important references to determine the ideological aims and objectives pursued by the Leading Group of the Respondent, as publications authored or participated, materials presented at various forums, and treatises published in official journals, or remarks made, by the Leading Group of the Respondent or by persons with good knowledge of its ideological aims and objectives: the Report made by the Democratic Labor Party's Strategy Committee for the Seizure of Power and approved at the First Party Policy Convention on June 21, 2009, and the attached commentaries and discussion (collectively, the "**Report on Strategies for Seizing Power**"); "Progressive Democracy in the 21st Century," published on June 18, 2011 by ○○ Research Institute, a policy research institute of the Democratic Labor Party; "20 Questions and 20 Answers About the Platform of the Unified Progressive Party," and "What is a Party Platform (30 Questions and 30 Answers)," written by the Respondent's Party Member Education Committee; "The Nature of Korean Society and the Direction of Revolutionary Movements in the June 15th Era," "Circumstances for Unification after Six-Party Talks and Direction for Response by Activist Camps," and other works of Park ○-Soon, the current Vice President of the Respondent's ○○ Research Institute, and a former head instructor for the education of the platform as a member of the Party Member Education Committee of the Respondent, and who played a leading role in introducing "progressive democracy" as the director of planning in the Strategy Committee for the Seizure of Power and the Platform Amendment Committee of the Democratic Labor Party; "Why Does the Democratic Labor Party Need a Battle Front?" and other works of Lee

○-Dae, who served as Chair of the Democratic Labor Party's Policy Committee; "My Love, the Democratic Labor Party - Ten-Year Record of the Democratic Labor Party," authored by Choi ○-Young, the current head of Policy Department of the Respondent's ○○ Research Institute, and a former Deputy Secretary General of the Democratic Labor Party; "Reality of Korean Society and Alternative Ideology - Progressive Democracy in the 21st Century and Evaluation of Ten Years of the Democratic Labor Party and Challenges," written by Choi ○-Yeop who served as Chair of the Democratic Labor Party's Strategy Committee for the Seizure of Power and the Platform Amendment Committee, and President of the aforementioned ○○ Research Institute; "The Nature of Korean Society and Revolutionary Strategies" by Kim ○-Min, a researcher at the Respondent's ○○ Research Institute and a former member of the Democratic Labor Party's Strategy Committee for the Seizure of Power, and a full-time researcher at the ○○ Research Institute; "A Progressive Party Asks the Way to Social Revolution," and other treatises written by Han ○-Seok, Chair of the U.S. Eastern Regional Chapter of the Democratic Labor Party, who contributed several articles to the official journal of the Democratic Labor Party and made a number of remarks at meetings held by the party; and each remark made on official occasions by Ju ○-Hwan, a former Chair of the Policy Committee, as a member of the "Autonomy and Solidarity for Social Democracy," which is classified as the Equality Faction (the social democracy line within the faction) within the Democratic Labor Party.

(2) Perception of Korean Society

The Leading Group of the Respondent proposes an autonomous, democratic government and a progressive democratic society as an alternative to the current Korean society. Therefore, in order to understand the actual meaning of progressive democracy intended by the Leading Group of the Respondent, it is necessary to look into how it

perceives Korean society.

Regarding the realities of Korean society, the preamble to the Respondent's platform observes that there exists "a socioeconomic crisis caused by neo-liberalism, a democratic crisis caused by authoritarian politics, a crisis to food sovereignty caused by the open agricultural market and agriculture-killing policies, an ecological crisis of global scale, and a crisis of war caused by hegemonies of world powers." Article 8 of the main text of the platform states that it shall "firmly establish sovereignty in all national policies on politics, military affairs, diplomacy, economy, etc.," and Article 44 refers to the "replacement of the Armistice Agreement with a peace agreement," "withdrawal of the United States' military forces from Korea," and the "termination of a subordinate Korea-US alliance."

Meanwhile, "Commentaries on the Platform" explains that "The current society is not a society owned by workers but a society in which the privileged few act as if they owned the society. This is clearly an upside-down society." Regarding Article 8, it claims that there is deepening subordination due to the United States' overwhelming influence over every policy of Korea including military affairs, and that SOFA, the Korea-US FTA, etc., are unfair. Regarding Article 44, it claims that the fundamental problem in Korean society is derived from capitalism, its subordination to foreign powers, and the nation's division, arguing, *inter alia*, that the problems of the state of armistice stem from a strong influence of super powers, including the United States, and Korea's non-autonomous circumstances.

The Report on Strategies for Seizing Power also defines Korea's political system as an abusive and oppressive one, and argues, "Korean society appears to be a medium-level advanced capitalist nation on the surface, but in essence it is a 'subordinate, pariah and capitalist society' and a 'country with national division.'"

In "Progressive Democracy in the 21st Century," Korean society is defined as a neo-liberal system, defined as an 'imperialistic rule,' and 'an institution exploiting people and labor.'

In "The Nature of Korean Society and the Direction of Revolutionary Movements in the June 15th Era," Park ○-Soon explains that "From a standpoint of the social revolutionary theory of the *Juche* ideology, Korean society is a 'colonial, semi-capitalist society.' Korea is a colony of the United States politically, economically and militarily, and the existence of overall political, economic and military structures of Korean capitalism is dominated by the United States, and Korean capitalism is completely subordinated and colonized to serve the interest of the United States and is a deformed and maimed semi-capitalism in which the laws of function of capital is degenerated in an irregular and asymmetrical manner due to the colonial situation."

Based on the above, the Leading Group of the Respondent can be viewed as perceiving Korea as a 'pariah' capitalist society, 'subordinate' to the United States and foreign powers or 'subservient' neo-liberal society and a colonial semi-capitalist society, and a 'country with national division.'

(3) Substance of Progressive Democracy

(a) Ideology for an Alternative System and Tasks under the Platform

As examined above, the Leading Group of the Respondent perceives Korean society as a 'pariah capitalist' nation 'subordinate to foreign powers' and a deformed and maimed capitalist society with its subordination and vulgarity aggravated by 'national division.' It proposes realization of a 'progressive democratic' society where the people command all aspects of social life, including politics, economy, society and culture. With respect to values pursued under the platform, it claims

to be a "progressive political party aiming for a new alternative society to realize various progressive values, such as autonomy, equality, peace, liberty, welfare, ecology, human rights, minority rights and solidarity."

"Commentary on Party Policies of Progressive Democracy" presents the party's policies and goals as (a) 'recovery of sovereignty,' (b) 'realization of democracy by the people,' (c) 'peace on the Korean Peninsula and realization of autonomous unification,' (d) 'top five tasks for people's livelihood and realization of social equality,' and (e) 'realization of an ecologically sustainable society.' It further urges, *inter alia*, termination of the unequal Korea-US alliance, phased withdrawal of U.S. military forces from Korea, amendment or abolition of unequal agreements and treaties, elimination of the National Security Act system, elimination of a privileged power structure, establishment of an equal political structure, establishment of peace on the Korean Peninsula, realization of autonomous unification, and establishment of a unified economic system.

"Declaration of the 2013 Party Policy Convention" declares that "The new society that the Unified Progressive Party pursues is a society in which progressive democracy is realized. Progressive democracy is the way to autonomy, democracy, equality, and peaceful unification."

The Report on Strategies for Seizing Power states, "The Democratic Labor Party aims for an autonomous, democratic government by the people" or "The Democratic Labor Party aims for an autonomous, unified nation under a federation in which the South and the North mutually respect each other's regime as a unified nation." It further proposes "establishment of autonomy, establishment of economy for people's livelihood, realization of democracy, and realization of peaceful unification" as tasks of Korean society. "20 Questions and 20 Answers about the Platform of the Unified Progressive Party" explains that "The party platform can be expressed in three principal elements, which are

the platform for democracy, the platform for autonomy, and the platform for autonomous unification. These can be summed up as top two major elements, which are the platform for progressive democracy and the platform for autonomous unification, and we collectively call our party's platform the 'Platform for Progressive Democracy.'"

Moreover, "Progressive Democracy in the 21st Century" emphasizes that national autonomy is a core value, and a fundamental prerequisite and the starting point for the realization of democracy, that 'by the people' is another core value, that the progressive, democratic system in the 21st century is characterized as a democratic system by the people, that equality and autonomy are the two axes of democracy in the 21st century, and that peace in a reality with divided regimes means unification, further asserting that peace and unification on the Korean Peninsula are the top-priority political tasks of the progressive, democratic system in the 21st century.

Also, in "Circumstances for Unification after Six-Party Talks and Direction for Response by Activist Camps," Park ○-Soon defines Korean society as a "colonial semi-capitalist society" and contends that "Among the two qualities of Korean society, the regulatory and main aspect is mostly of a colonial nature, and thus we have to take anti-American autonomy as the first objective and the central task, concentrate all strength and capacity for the victory in struggles for anti-American autonomy, and work for anti-American autonomy. Democracy without autonomy is a fantasy, and there is no unification without autonomy. Autonomy is the fundamental prerequisite and cornerstone for the democratization and unification of homeland."

In summary, it can be said that the Leading Group of the Respondent presents autonomy, democracy (equality and welfare, liberty and human rights of the people), unification (peace), and ecology that conforms to the characteristics of concerns of the 21st century, as core values of

progressive democracy, and perceives national autonomy (autonomy), democracy (democracy) and national reconciliation (unification) as tasks under the platform, and "autonomy" as the one that must be accomplished ahead of "democracy" or "unification."

(b) People's Democracy

1) People's Sovereignty

Under the title "Toward a World Owned by Working People," the preamble to the Respondent's platform defines the Respondent as a "political party that reflects and represents demands and interests of the working people, including laborers, farmers and small and medium enterprises, and it will open a world owned by the working people by putting their wisdom and strength together." It further declares that it will "establish an autonomous democratic government in which the working people is the owner, and realize a progressive democratic society where the people command all aspects of social life, including politics, economy, society and culture."

Sovereignty is a historical and empirical concept, and has two properties in general: external independence and internal supremacy. Internal sovereignty means the power or authority to determine the ultimate direction of state affairs, and refers to the state's monopoly of governing power and physical force. In "The Nature of Korean Society and the Direction of Revolutionary Movements in the June 15th Era," however, Park ○-Soon contends that who has sovereignty gives the basic indicator of a society character, and explains that "Sovereignty is the right to determine the political status and role of the members of society and to uniformly command and control their activities, in short 'political dominion.' The class, stratum or social group that has sovereignty makes laws and institutions in politics, economy, society, culture and all other areas to serve its own political and economic interest by which it organizes and mobilizes the members of society in

a direction to realize its own political and economic interests.”

“Commentaries on the Platform” uses the terms ‘the working people’ and ‘the people’ synonymously, and, explains that the autonomous democratic government of the future is “a new political system in which the principle of people’s sovereignty is realized, giving the working people actual political and economic sovereignty.”

The Report on Strategies for Seizing Power states that the political line of the autonomous democratic government is progressive democracy, and given the main agents of division and reform, progressive democracy can be called the “people’s democracy,” further explaining that, “Progressive democracy is democracy by the people, led by the people. It accommodates what the people aim for and need and structurally guarantees the rule of laborers, farmers and low-income earners forming the majority of society.” The report views progressive democracy as a society dedicated to serving the interest of the people and in which the people have the political dominion and sovereignty to determine the ultimate direction of state affairs, to wit democracy by the people, and people’s democracy based on the theory of people’s sovereignty. “Progressive Democracy in the 21st Century” claims that the autonomous democratic government is a people’s regime in terms of its class nature, and that democracy materializing the idea of people’s sovereignty is the progressive democracy for the 21st century, and that “Under the autonomous democratic government, the people will no longer be the politically ruled class but become the ruling power that dominates the political regime; and a democratic system that puts forward, as its top priority task, laborers’ and people’s dominance of political and economic power and dedication to serving the interest of laborers and the people is the progressive democratic system for the 21st century.”

In sum, it appears that the regime that the Leading Group of the

Respondent aims for is an autonomous democratic regime, whose characteristic is a people's regime recognizing people's sovereignty, and progressive democracy is democracy by the people in which the people have the sovereignty, to wit people's democracy based on the theory of people's sovereignty.

The platform does not specifically define the "working people," to wit the people, who are the main agents of reform, but its preamble seems to cite as examples of the working people "laborers, farmers and small and medium entrepreneurs" as well as "non-permanent workers, youths, women, small, medium or petty entrepreneurs, the poor and the socially disadvantaged."

"Commentaries on the Platform" explains that, "The term 'working people,' does not refer to the entire citizens of a nation. It is a term referring to the people who are contributors to the development of society and advancement of history, among the people living in the nation, excluding the privileged ruling class." The book further mentions that 'the people' means the "people of all ranks and classes, including laborers, farmers, youths, small, medium or petty entrepreneurs, women, social minority and progressive intellectuals." In the Report on Strategies for Seizing Power, the people includes those "who aim for liberation and unification" or petty entrepreneurs "who resist imperialist capital and domestic monopoly capital," as well as unification activists who "resist US and Japanese imperialism and aspire to overcome the division of the nation." "Progressive Democracy in the 21st Century" defines the people as "the ruled class and strata oppressed and exploited by the ruling class in a subordinate neo-liberal regime, people directly involved in production, and main agents of historical development of history." The book limits the scope of the people to "laborers, farmers, women, young students, intellectuals, urban self-employers, conscientious priests, patriotic soldiers, social minority groups such as persons with disabilities, and groups of small and medium-sized capitalists who support the

autonomous development of the economy.”

As seen above, the specific scope of the people recognized by the Leading Group of the Respondent is laborers and farmers, as core figures, and women, young students, progressive intellectuals, conscientious priests, patriotic (low-ranked) soldiers, social minority groups such as persons with disabilities, small, medium or petty entrepreneurs who resist imperialist capital and domestic monopoly capital, and unification activists who resist US and Japanese imperialism and aspire to overcome division.

Meanwhile, as to people’s sovereignty, the Respondent asserts in “Commentaries on the Platform,” that “Unlike other political parties, we must never tolerate the sovereignty or the political and economic privileges monopolized by the privileged few in our society, and should fight against them without compromise, and establish a democratic regime of the people in which the people have direct dominance and control of political power. In “2014 Advance Forward with People,” it contends: Progressive democracy is an idea of democracy that embodies people’s sovereignty. People’s sovereignty is the principle that monopoly of power by the privileged few must be overcome and the people must be able to exercise actual sovereignty. In order for the people to actually exercise sovereignty, we must push towards practical and substantive democracy beyond formal and procedural democracy, and to this end, we must abolish the privileged political and economic structure and realize the rule by people.”

Also, “Progressive Democracy in the 21st Century” asserts: “(The revolutionary task) is the process of depriving the privileged ruling class of the power they dominate and returning it to the people who are the real owners of the power. The notion of people’s sovereignty mentioned in this work is not just borrowed from the Western notion of popular sovereignty. We should recognize the hostile nature of the interests of

one class against those of another, existent among members of society. Due to such hostility, therefore the sovereignty of each member of society is not identical but divided, conflicting and hostilely opposing each other, due to the stance and interests of the class or stratum it represents. As a result, depending on from which class's or stratum's interests the sovereignty issue is approached, the substance of sovereignty and the method of realizing it inevitably vary. In this regard, since the sovereignty of the privileged ruling class and that of the people opposing that class (majority citizens) are in hostile confrontation with each other in our society, the sovereignty issue should be approached focusing on the interests of the people."

In sum, unlike the principle of national sovereignty that the sovereignty resides in all people, the Leading Group of the Respondent divides the members of a society into the privileged ruling class, and the "people," views the sovereignty of each class as being in hostile confrontation with each other, and contends that since progressive democracy is incompatible with the privileged ruling class, which is an outdated existence with vested interests, the privileged ruling class must be deprived of the power they dominate and the power must be returned to the people. To wit, in that the Respondent limits the scope of the sovereign to the people, and assumes hostile relationships with the people of certain class on the other side, the doctrine of people's sovereignty proposed by the Leading Group of the Respondent is different from the commonly understood doctrine of national sovereignty where sovereignty resides in citizens in general. The doctrine of people's sovereignty in this sense is also ascertained by the perception among the Leading Group of the Respondent, dividing citizens into the main agents of reform, and the targets of reform or regulation, as will be discussed below.

2) People's Democratic Reform (Revolution)

As examined above, the autonomous democratic regime pursued by the

Leading Group of the Respondent is a regime of progressive democracy, and progressive democracy is democracy by the people, i.e., people's democracy, based on the theory of people's sovereignty.

(i) First, in order to further clarify the meaning and substance of progressive democracy, how the Leading Group of the Respondent perceives liberal democracy will be examined.

According to "Progressive Democracy in the 21st Century," a liberal democratic system is a regime of the capitalist class, and under a liberal democratic system, in which political, economic and military powers are in the grasp of a certain class among hierarchically divided classes, national sovereignty that is equal and even among citizens is a mere illusion. "Under a liberal democratic system, there is a privileged ruling class that politically and economically rules, exploits and expropriates the people who are the majority, and thereby oppresses people's political and economic sovereignty. The people are actually robbed of their sovereignty and fall into a state of no right." In particular, regarding neo-liberalism, it asserts that "The age of neo-liberal globalization inevitably heads for the age of annihilation or loss of sovereignty. Unless the flow is stopped, the people will be left with mere nominal sovereignty, being robbed of their actual sovereignty, and will live lives with no rights." In "Reality of Korean Society and Alternative Ideology - Progressive Democracy in the 21st Century," Choi ○-Yeop, former Chair of the Platform Amendment Committee, also argued that "liberal democracy based on the theory of national sovereignty is a capitalist dictatorship."

In sum, the Leading Group of the Respondent perceives a liberal democratic system as a regime of the capitalist class, a society with structurally unequal political (economic) power, where capitalists or the privileged ruling class exist to dominate state power and rule the people politically and economically by exploitations and expropriations, while

the people are robbed of their sovereignty in practice and fall into a state of no rights.

(ii) Next, it will be examined how the Leading Group of the Respondent understands the characteristics of a people's democracy (the doctrine of people's sovereignty) that it has proposed as an alternative system to resolve such contradictions and problems of a liberal democratic system.

Regarding the "autonomous democratic government" in which progressive democracy is realized, "Commentaries on the Platform" explains that "It is a power structure in which the politically and economically privileged class entirely steps down from power and the working people (the people) become the actual owners of political power. It is a new political system where the people reclaim their legislative, executive and judicial sovereignty, which is currently monopolized by the privileged class. It is a new political system that breaks the limitations of the taxidermied principle of people's sovereignty under which sovereignty is actually monopolized by the privileged class, and that realizes the principle of people's sovereignty enabling the working people to actually enjoy political and economic sovereignty. An autonomous democratic government makes constructing a progressive democratic society its mission," and as to "progressive democratic society," the book explains that it is a "democratic system by the people based on various ideas of progressive democracy seeking to reform liberal democracy that has revealed its limitations, and is a new alternative economic system that overcomes the subordinate neo-liberal system."

The Report on Strategies for Seizing Power argued for fundamentally changing Korea's political and economic structure and the structure of a divided nation, to replace it with an alternative system, asserting that, "Through a second pro-democracy struggle, (the Democratic Labor Party)

must change the division structure into a structure in which the South and the North coexist, the subordinate economic structure into an autonomous political and economic structure, and the political and economic structure centered around *chaebol* and the privileged class into a political and economic structure centered around ordinary people," and the "Progressive Democracy in the 21st Century" argues that a comprehensive reform of the current system and development of a new, alternative system comes down to class struggles and politics, stating that, "The issue of building a new alternative system is an issue of class struggles and politics. The forces dominating the existing economic system entirely control political and economic power, and even social and cultural power. They are trying to maintain the old system by all means to defend their vested interests. So, unless we win a life-and-death struggle against them, the progress to a new society is impossible. That is why any attempt seeking an alternative to neo-liberalism requires a full-scale renovation of the power structure. The key issue here is, in particular, replacement of political power. The winning forces in the fierce political struggles will become the ruling forces of the society and will gain the strength and authority to dominate all areas of politics, economy, society and culture. Therefore, the issue of an alternative system ultimately leads to the issue of a new democracy capable of overthrowing the political rule of the existing ruling class. ... (omitted) ... The key for overcoming neo-liberalism does not lie in the economy but lies in politics, and it is a matter of creating a new democracy through fierce class struggles."

"Progressive Democracy in the 21st Century" contends that progressive democracy is a totally new democracy incompatible with the old forces with vested interests, saying "The autonomous democratic government to be born as a result of struggles is the people's power built with people's strength, crushing the exclusive rule of the capitalist class over the regime. People's power is fundamentally different from the regime of the capitalist class. Under the 21st century progressive democratic regime,

the people will exercise substantive sovereignty, not nominal sovereignty. Under the autonomous democratic government, the people will no longer be the politically ruled class but will be the ruling force seizing the regime." It also argues for an all-out renovation of neo-liberalism and abolition of the existing political and economic structure, claiming that "the autonomous democratic government must implement structural reform of politics to ensure stability in people's power." It goes on to say that "The autonomous democratic government must abolish the political and economic structure that could be reproduced by old politics, through democratic renovation of the old political and economic structure. If we implement democracy without overthrowing the old structure, that will allow the anti-national and anti-democratic political forces to attempt to topple the 21st century progressive democratic system by taking advantage of their remaining influence. The matter of how completely we abolish the old political and economic structure is the key factor determining the future of the 21st century progressive democracy."

"Collection of Pledges for the 17th Presidential Election" explains, "If the Democratic Labor Party seizes power, it will convene the National Assembly for the enactment of a new constitution and completely restructure national constitutional bodies, and will establish an autonomous democratic government," and "The process of reforming the nation follows a core process for the realization of progressive democracy, of convening the National Assembly for the enactment of a new constitution, establishing an autonomous democratic government, and finally completing the national reform." The fact that the Respondent goes so far as to contemplate the enactment of a new constitution, instead of constitutional amendment, or enactment or amendment of statutes to accomplish unification and social reform indicates that the Respondent envisions a different system from the current liberal democratic system through replacing the sovereign.

In "The Nature of Korean Society and the Direction of Revolutionary Movements in the June 15th Era" Park ○-Soon argues that "revolutionary movements in Korea aimed for democratic reform for national liberation," and that "We need to clearly understand that democratic reform for national liberation is democratic reform, driven by the working people, 'fundamentally distinguished' from bourgeois democracy, and is a struggle to establish a progressive democratic institution under which people's true democratic needs are fulfilled, not just being content with realizing bourgeois democracy."

In sum, it can be said that the Leading Group of the Respondent perceives the change to people's democratic society, wherein an unequal structure of liberal democracy under which the capitalist class or the privileged ruling class has actual sovereignty is abolished and sovereignty is given to the people, not as a mere quantitative change but as "total reform or revolution." However, the Leading Group of the Respondent, rather than pursuing the realization of progressive democracy, has focused on establishing autonomy, i.e., the issue of national liberation, as a priority task under the platform, and this 'people's democratic reform' or 'people's democratic revolution' that it advocates can also be viewed as 'people's democratic reform for national liberation' or 'people's democratic revolution for national liberation.'

3) Progressive Democratic System as an Interim Government

The Report on Strategies for Seizing Power states, "The nation and society that the Democratic Labor Party will establish immediately after it seizes power is a transition to the realization of the ultimate ideology and regime goals. The transition is a period during which labor liberation has yet to be perfected due to residual harms of capitalism and it requires solidarity and alliance with laborers as well as various classes to end imperialist rule and monopoly capital. The ultimate aim of the Democratic Labor Party can be viewed as socialism in a broad sense

that has vaguely overcome capitalism.”

Also, in “The Nature of Korean Society and the Direction of Revolutionary Movements in the June 15th Era,” Park ○-Soon argues, “Revolutionary movements in Korea are for democratic reform for national liberation, and the goals of the reform are to establish an autonomous democratic government and to found a unified government under a federation. Once an autonomous democratic government, and a unified government under a federation system is established, our missions to achieve national autonomy and unification of the homeland will be accomplished, and then revolutionary movements in Korea will advance and proceed with the task of class liberation in full scale. However, it does not mean that the task of class liberation is put off in the course of constructing the autonomous national democratic government and the unified government under a federation. In the process of pushing forward the revolutionary movements for national liberation, the task of class liberation, which is materialization of progressive democracy, must also be pushed simultaneously.” Kim ○-Min argues in “The Nature of Korean Society and Revolutionary Strategies,” that even after the socialist forces seize power over an interim government by aligning forces of various classes, building a socialist system takes more than a few years, and so we need to reorganize social, economic and political structures to create an environment essential for the realization of socialism, using the interim government as basis. As such, a socialist system will not be completed simultaneously with socialists’ establishment of an interim government, but will become complete through an all-out revolution in politics, economy, society, culture, etc., to be continued for a certain period of time after seizing power. A socialist regime can be distinguished from the interim government, which is the preceding stage, in that socialism is what is ultimately aimed for, while the interim government is a transitional stage for seizing power.”

Ahn ○-Seop, Secretary General of the Respondent, said in a media interview dated January 22, 2013, "In the process of the merger, we have decided progressive democracy as our value. It is pursuing values like autonomy, democracy, unification, equality, ecology and environment. The phrase "pursue socialist values" was deleted from the previous Democratic Labor Party's platform in our merger process, but I think they are ultimately in the same context and are what we need to uphold."

Moreover, Jang ○-Ho, who was involved in the *Ilsimhoe* case, criticized the Equality Faction within the Democratic Labor Party in a report to the North, saying that "They don't understand that an autonomous democratic coalition government combined with a loose form of federation, growing and evolving into a unified socialist regime, is the path leading to true socialism for Korea."

Choi ○-Yeop, Chair of the Platform Amendment Committee, who had urged the introduction of "progressive democracy" on the ground that it was premature to put the phrase "the succession to, and the development of, ideals and principles of socialism" in the platform, stated at the Second Party Policy Convention on June 18 and 19, 2001, that "The phrase 'ideals and principles of socialism' is omitted only because they are what we need to do in the remote future, and hopefully there will be no misunderstanding. Everything is in it, except for the word communism." Choi ○-Yeop also remarked in "Valuation of Ten Years of the Democratic Labor Party and Challenges," that "There are disparities even within the respective factions, where the Equality Faction wants to make socialism or social democracy the ideological alternative, while the Autonomy Faction wants either progressive democracy, which is the first phase of socialism, or socialism."

These remarks and observations, together with the above-mentioned arguments and comments, show that the Leading Group of the

Respondent, while socialism remained its ultimate goal, saw the progressive democratic regime as an interim government in preparation for a stable transition from the liberal democratic regime to socialism, because urging a socialistic reform at the current stage would not draw active participation from the public, and further would lose the battle against the vested interests, making the construction of a new society impossible.

(c) Unification under Federal System

The preamble to the Respondent's platform presents 'peace' as one of the ideological values that it pursues, and declares that it will "establish a nuclear-free, peaceful regime on the Korean Peninsula, accomplish autonomous, peaceful unification, and build a new society where human beings and labor are respected." The text of the platform pledges early establishment of a nuclear-free, peaceful regime on the Korean Peninsula and Northeast Asia, through, *inter alia*, replacement of the Armistice Agreement with a peace agreement, as well as withdrawal of the United States' military forces from Korea, termination of a subordinate Korea-US alliance, implementation of the June 15th Joint Declaration and the October 4th Declaration, pursuit of autonomous peaceful unification, and amendment or abolition of all existing unequal agreements and treaties, yet does not mention detailed plans for unification. However, given that the Respondent views the divided Korea as one of the fundamental contradictions facing Korean society, the perfection of a unified nation to overcome the division is an important task for the Respondent under its platform. The Report on Strategies for Seizing Power also states that "the government that the Democratic Labor Party aims for is a progressive democratic government that will complete unification and to which imperialistic rule is subordinated."

At the 17th Presidential Election in 2007, when Kwon ○-Gil was elected the party's presidential candidate with support of the Autonomy

Faction, he pledged unification under a one-state, two-system, and two-government federation, under Lee ○-Dae's lead. Also, the Report on Strategies for Seizing Power, prepared mainly by the Autonomy Faction after the First Split in which majority of the Equality Faction left the Democratic Labor Party, advocated for a one-state, two-system, and two-government federation, stating that, "The Democratic Labor Party aims for an 'autonomous unified nation under a federation' in which the South and the North mutually respect each other's regime as a unified nation; and that the South's and the North's regimes need to coexist 'for the time being,' and the first unified nation should inevitably be a federation with 'coalitional regimes' in whatever form." The platform amended in June 2011 also made clear the aim of unification under a federation, stating that the party "pursues unification under a federation." In the 18th Presidential Election in December 2012 after the Second Split, in which party members formerly from the New Progressive Party and the People's Participation Party and some members from the Autonomy Faction including the Incheon Alliance left the party, it proposed a Federal Republic of Korea as a way of unification under a federation, pledging pursuit of unification based on common elements from 'the South's concept of a confederation and the North's formula for a loose form of federation,' as prescribed in Section 2 of the June 15th Joint Declaration. The Leading Group of the Respondent, including Lee ○-Dae and Park ○-Soon, advocates a vision for unification under a federation, a 'one-state, two-system, and two-government' unification plan, which is identical to North Korea's federation formula for unification under the June 15th Joint Declaration.

The Report on Strategies for Seizing Power explains that since the regimes of the South and the North need to coexist for the time being, the first unified nation should inevitably be a federation with coalitional regimes in whatever forms, as outlined in the June 15th Joint Declaration. The phrases 'coexist for the time being' and 'the first unified nation' indicate that the federal system advocated by the Leading

Group of the Respondent is an interim system. The Report acknowledges the inevitable conflicts between the systems under the one-state, two-system and two-government federation, and the need to overcome such conflicts and ultimately head for a unified system, asserting, "Since 'conflicts between systems' under a federation with two systems are 'unavoidable,' the bicameral system is not feasible if we are to overcome the conflicts and ultimately achieve a unified system, because it is most likely to cause confrontations and conflicts." Also, "Collection of Pledges for the 17th Presidential Election" mentions that, "The Federal Republic of Korea will start with the South and the North controlling its own regional government, and ultimately will be operated in a direction to raise the degree of unification and strengthen the unified federal nation," a remark which also proves that the federation advocated by the Leading Group of the Respondent is an interim system. Given the reality that no federal nation exists on earth in which different systems and institutions coexist, and the notion of a federation enduring for a long time, allowing different systems and institutional systems to coexist, is inconsistent with the attributes of a federal nation, unification under a federation with 'one state, two systems and two governments,' as a way of unifying Korea to overcome the national division, assumes a form of a unified nation with one integrated system in the end. Then, it becomes necessary to examine what the Leading Group of the Respondent envisions as the ultimate form of the unified nation.

First, how the Leading Group of the Respondent perceives "unification" will be examined. The Report on Strategies for Seizing Power asserts, "The progressive party must sublimate contradictions of the divided Korea into the unification and revolutionary movements, and an opportunity for the progressive party to grow and seize political power," and "Progressive democracy emphasizes unification as a strategic task in the process of fundamentally overcoming capitalism." In "The Nature of Korean Society and Revolutionary Strategies," Kim ○-Min contends that, "On the Korean Peninsula, the final physical device

for imperialist interference and rule is the presence of the US military forces in Korea, which is guaranteed by the Mutual Defense Treaty between the Republic of Korea and the United States of America. So, when the process of socialist reform endangers the domestic capital and regime, it will invite an immediate intervention of imperialist forces and cause another national tragedy, and therefore we must come up with a peaceful safeguard preventing the intervention of imperialist forces. It is possible to have such safeguard, with the unification led by the labor class. Unification under a federation with one state, two systems and two governments is a dialectical unification formula that will drive out imperialism through peaceful unification and liberate the productive population like laborers and farmers."

In "A Progressive Party Asks the Way to Social Revolution," Han ○-Seok argues that, "The unification of the Korean (Joseon) Peninsula envisioned from the perspective of national self-reliance is not the anti-socialist integration by absorption advanced by imperialists and domestic reactionaries, but the unification under a federation that they intensely oppose, or fear, to be exact. The reason why they intensely oppose and fear the unification under a federation is that it is tied to South (Korea)'s social reform," and "from the perspective of national self-reliance, unification under a federation to be realized on the Korean (Joseon) Peninsula is associated with democratic reform carried out by South (Korea)'s labor class and working people, with anti-imperialist struggles for autonomy of the Korean (Joseon) people as the vehicle." Ultimately, the Leading Group of the Respondent views the unification plan as a mean for reforming Korean society.

Next, what the Leading Group of the Respondent envisions as the ultimate form of the unified nation will be examined.

The Report on Strategies for Seizing Power asserts that once an agreement is reached on the so-called loose form of federation, the constitution of the Federal Republic of Korea (one state, two systems

and two governments) will have to be enacted, and then the respective regional government in the South and the North will also have to be changed into a form of government that complies with it, proposing the "constitution of a people-oriented and autonomous democratic government" for South Korea, and the "constitution of a socialist government" for North Korea, with both constitutions converging into the constitution of the (Federal) Republic of Korea (or into an alternative system), and views South Korea's current political system as an 'abusive and oppressive political system' and its current government as a 'government of extreme conservatives,' which will "vanish from history along with progress of the South and North relationship." In addition, the "Collection of Pledges for the 17th Presidential Election" claims that, "If the Democratic Labor Party seizes power, it will immediately start unification negotiations with the North's government for the construction of a unified federal nation, and, at the same time, will commence work to fully renovate South Korean society," and that "The process of reforming the nation is a process centered around the convening of the National Assembly for the enactment of a new constitution, the establishment of an autonomous democratic government, and finally completing national reform and realizing progressive democracy." These claims indicate that once the Respondent seizes power, it will start negotiations with North Korea on unification for the so-called loose form of federation, and at the same time, through this, abolish the current constitutional system to establish an autonomous democratic government and progressive democracy in which people's sovereignty is realized, and enact a new constitution that conforms to a progressive democratic regime. Also, the Report on Strategies for Seizing Power asserts that "The nation and the society that the Democratic Labor Party intends to build after seizing power can be divided into two phases, the formation phase of a unified federal nation and the subsequent development phase of a unified nation. The nation and the society aimed to be achieved during the development phase of the unified nation reflect the ultimate ideology and system pursued by the Democratic Labor Party."

Based on these claims, together with contents of the Report on Strategies for Seizing Power examined earlier in connection with the finding that the progressive democratic system is an interim system to ensure a stable transition from a liberal democratic system to socialism, arguments from those such as Park ○-Soon, Kim ○-Min, Ahn ○-Seop, Jang ○-Ho, Choi ○-Yeop, and the fact that the Leading Group of the Respondent includes those who ultimately aim for the realization of socialism, the form of the unified nation that the Leading Group of the Respondent intends to build after unification in a loose form of federation appears to be a socialistic system that has undergone a progressive democratic system as a transitional phase.

(4) Method of Realizing Progressive Democracy

(a) Main Agents and Targets of Reform in(to) Realizing Progressive Democracy

As examined earlier, the platform and the "Commentaries on the Platform," etc., advocate people's sovereignty, saying that laborers, i.e., the people, are the sovereign. According to "Progressive Democracy in the 21st Century," "A progressive democratic regime in the 21st century will inevitably be the political force of the people who aim for uncompromising and thorough fundamental change," and "The autonomous democratic government to be born as a result of struggles is people's power 'built' with 'people's strength,' crushing the exclusive rule of the capitalist class over the regime." It views the laborers, to wit the people, as the main agents of reform, as is the case with the sovereign. The specific scope of the people is as examined above.

Meanwhile, "Commentaries on the Platform" mentions that "people must never tolerate the political and economic privileges monopolized by the privileged few, and must fight against them without compromise," naming, though abstractly, the privileged few as the target of reform. It

also asserts that "The Unified Progressive Party does not deny the capitalist class per se. The capitalist class can also be the members of the party, as long as the class can contribute to the advancement of history and progress of society." This statement indicates that except for petty entrepreneurs "who resist imperialist capital and domestic monopoly capital," the capitalist class is basically perceived as the target of reform. The Report on Strategies for Seizing Power observes that "In Korean society, political elites, military elites and domestic and foreign monopoly capital are forming an alliance of power. What consolidates the power alliance in Korean society and serves at its center, as an axis, preventing the power alliance from collapsing, is the United States." "Collection of Pledges for the 17th Presidential Election" urges the demolition of the structure with vested interests, explaining that *chaebol*, foreign speculative capital, corrupt bureaucrats and conservative political forces are forming a structure of vested interests in Korean society. Also, "Progressive Democracy in the 21st Century" asserts that "The old political structure continuously reproduces political subordination, inequality and corruption and by doing so guarantees monopolistic rule of the privileged forces and is blocking people's entry to the political arena. Only after the old regime is removed, a new 'democratic society' realizing the principle of people's sovereignty can be established over the old regime." The book goes on to say that the old ruling structure of Korean society is the pro-American conservative alliance comprising the US-Korea alliance, the National Security Act and the collusive links between politics and business; and that the political forces propping up the alliance are foreign powers, pro-American conservatives, extreme conservatives, obsolete military authorities, etc. Also, in "The Nature of Korean Society and the Direction of Reform Movements in the June 15th Era," Park ○-Soon contends that "The main target of struggles for revolutionary movements in Korea is the US imperialists, the largest plunderer and exploiter of Korean society. Reactionary bureaucrats, comprador capitalists and landlords are also targets of reform movements."

In sum, the Leading Group of the Respondent views the United States, transnational monopoly capital, pro-American conservatives, including pro-American conservative bureaucrats and politicians, extreme conservatives including reactionary bureaucrats, obsolete military authorities, conservative political parties, comprador capitalists, landlords, etc., as targets of reform, and, in particular, they perceive the United States as the main target of reform and control.

(b) Unified Front

"2014 Advance Forward with People" explains, "Seizure of power by progressives is the first step for the entry into a progressive democratic society. Seizure of power by progressives means that a progressive party seizes political power, together with wide-ranging progressive solidarity fronts, public organizations, etc., Seizure of power by progressives becomes possible when they overpower the old ruling forces through not only election tactics but also extensive mass struggles combined therewith. Even if progressives seize power through an election, without extensive and robust support from the public, it would not be possible to carry out progressive reform to build a progressive democratic society and also to maintain the regime there."

The Report on Strategies for Seizing Power explains, "The progressive political party accomplishes people's seizure of power through a body of people's fronts. Establishing a body of people's fronts is not to build a mere solidarity for movements but to secure a firm organizational ground for social reform and power. The body of people's fronts will wage all-out anti-imperialist and anti-neoliberalism struggles that have been triggered by people's struggles for the right to life; the core purpose of organizing people's forces is to establish a body of people's fronts with laborers and farmers as its framework. The body of people's fronts will start as a case-by-case solidarity to meet the needs of the public and grow into a permanent body for joint struggles; and it is the body of

people's fronts, as a permanent solidarity mechanism, that will hold together the Democratic Labor Party and social movement organizations for the purpose of mass struggles. The body of people's fronts is people's permanent solidarity, with laborers and farmers at the center who resist the monopoly capital, subordination to imperialism and the anti-people subordinate government that functions as its advocate. By these statements, the report stresses social reform and seizure of power by forming a permanent solidarity mechanism centering on laborers and farmers in the course of carrying out the reform and seizure of power."

"Progressive Democracy in the 21st Century" asserts that "it is necessary to unite people of all ranks and classes into a front for public political struggles under the banner of 21st century progressive democracy, and establish a people's solidarity for mass struggles as a vent for people's explosive political strength." Lee ○-Dae also contends, in "Why Does the Democratic Labor Party Need a Front" that "party's activities within the National Assembly are limited to what the party can do as a political party and, by nature, it has to concentrate its energy on such activities, and the party needs a front for mass struggles that can strongly support and cover its activities and maximize the effects of struggles within the National Assembly." Through this, so Lee ○-Dae's argument goes, the party can achieve an ultimate victory by maximizing the forces of people's camps and by winning over the middle class. Jeong ○-Yeon also asserted to the same effect in a presentation themed "About Establishing a Single United Body of Fronts for Progressive Movement Camps."

Meanwhile, the Report on Strategies for Seizing Power expressly states that the people's regime to be achieved through political struggles is a government with characteristics of a unified front based on extensive people's political struggles. "Progressive Democracy in the 21st Century" also explains that "seizure of power by progressives means that a progressive party takes the lead and seizes political power, together with

wide-ranging progressive solidarity fronts and public organizations.”

In sum, the Leading Group of the Respondent believes that a permanent solidarity mechanism must be formed in order to seize power and reform the society, and that the people’s regime to be achieved through the political struggles is a regime based on the extensive alliance of forces, a so-called regime of united front.

Accordingly, the Respondent has been exerting efforts to build a permanent solidarity since it was the Democratic Labor Party and, as examined earlier, joined the Korea Alliance for Progressive Movement.

(c) Right of Resistance and Violent Struggles

The preamble to the Respondent’s platform states, “The Unified Progressive Party is a party that succeeds to the ceaseless history of people’s resistance and struggles including the Gabo Peasant War, the righteous army movement, the March 1st Independence Movement, the national liberation movement, the labor liberation movement, the Jeju Uprising, the April Revolution, the Busan-Masan Uprising, the May 18th Democratic Uprising, the June Democratic Uprising, the Great Workers’ Struggle of 1987, and the candle light vigil.” While it mentions the succession to people’s resistance and struggles, it does not detail the method of carrying out these struggles or seizing power to accomplish tasks under the platform.

However, the Report on Strategies for Seizing Power proposes elections and exercise of the right of resistance as strategies to seize power, asserting that “The Democratic Labor Party will seize power by properly combining people’s ‘right of resistance’ and ‘struggles through elections.’ The Democratic Labor Party must win power with the support of the majority of citizens based on the unity of its supporting base. The method of seizing power varies depending on the political landscape, the

capacity of main agents and the dynamics of ruling forces. Roughly, seizing power may occur by elections, or by exercising the right of resistance. The most common way of seizing political power is an election, but we cannot rule out other ways."

First, seizing power through exercise of the right of resistance will be examined.

The right of resistance is a means of protecting the constitution and citizens' right by actively or passively resisting against government authority by violent or non-violent means in order to restore the basic democratic order, when governmental authority violates or destroys the basic democratic order. However, since the exercise of the right of resistance is resistance "by force" to the exercise of governmental authority, it carries an inherent risk of disturbing order, and so exercising the right of resistance requires that the violation go beyond a minor violation and constitute a serious violation of, or attempts to destroy, the basic democratic order, and that no other meaningful remedial means remain. Also, the right must be exercised only for the limited purpose of the maintenance and restoration of the basic democratic order, and may not be used as a means of reforming the political, social, or economic system.

In examining the argument by the Leading Group of the Respondent in light of such requirements, first of all, it urges seizure of power 'by' the right of resistance. However, as discussed earlier, one may use the right of resistance for maintaining and restoring the basic democratic order, but not proactively for seizing power, and thus this raises suspicions that the Group's reference to right of resistance actually means seizure of power by violent means. Of course, one may interpret such claims as expressions of the Group's intent to restore the basic democratic order by ousting the existing unconstitutional government through the exercise of the right of resistance in a constitutionally

justified situation, and to seize power thereafter by democratic means. Nevertheless, persistently urging seizure of power by the right of resistance, as well as through elections, tends to demonstrate that the Leading Group of the Respondent is not ruling out exercise of the right of resistance, even in situations with no risk of the basic democratic order being entirely violated or destroyed.

The Report on Strategies for Seizing Power explains that "Since the aim of the right of resistance is to deny the existing government and establish a new one, the right is inherently revolutionary. Indeed, the right of resistance is not clearly distinguishable from the right of revolution; and the revolutionary right of resistance is an explosive process through which the people recognize the entire existing law and order as legitimate violence and establish new law and order." Also, as to the relationship between the nationwide uprising of the people, which means the protests and struggles staged by all people, and the right of resistance, the report asserts that "A nationwide uprising of the people begins as a protest based on a civil disobedience movement, and depending on the legitimacy of the state power, the degree of oppression and the victims caused thereby, it develops into the right of resistance and the right of revolution to remove the illegitimate power and create a new one; and progressive democracy cannot be established without uncompromising mass struggles against the old political forces. We should instigate a nationwide uprising like the June Democratic Uprising, by simultaneously staging mass struggles for people's livelihood and realization of democracy led by the front for struggles for the right of autonomy." As such, the Report asserts that mass struggles can develop into the right of resistance and the right of revolution through nationwide uprisings of the people, and progressive democracy cannot be established without mass struggles and nationwide uprisings of the people.

With respect to the exercise of the right of resistance, the Report on Strategies for Seizing Power asserts that the right of resistance may be

accompanied by the use of force or violence, stating, "The right of revolutionary resistance is the legitimate use of force not approved by the existing law and order. The right of revolutionary resistance for the reform of a regime is mostly accompanied by armed clashes due to backlashes from the old regime. Such conflicts occur in the form of a civil war accompanied by a war against a foreign power, or a temporary street battle. At what level the armed clash will take place varies depending on foreign intervention, responses from the military and rise of a reactionary regime."

In "The Nature of Korean Society and the Direction of Revolutionary Movements in the June 15th Era," Park ○-Soon contends that, "Whether it is reform through elections or armed struggles, we must find a way suitable for our prevailing realities and conditions. The essence lies with the people gaining power," and the "core strategy for the people's seizing power is pursuit of a revolutionary change of the existing political order, and we must seek a revolutionary change based on people's strength," and in "The Nature of Korean Society and Revolutionary Strategies," Kim ○-Min mentions that "while the method of seizing power by a progressive party is basically by a victory in an election driven by mass struggles, we cannot rule out seizing power through a nationwide uprising of the people in a situation justifying the exercise of the right of resistance." Furthermore, in "Strategies for Seizing Power in a Democratic Revolution and Path of Seizing Power by a Progressive Political Party," Han ○-Seok argues that "The class dictatorship in a capitalist society can come to an end through the struggles of the labor class and the working people, and, in that sense, the demise of the class dictatorship will be realized in a non-peaceful and militant manner, and establishing a new democratic regime requires powerful and explosive physical force that surpasses counteraction from the ruling class. If a progressive party initiates political struggles within and without the National Assembly and stirs up the will to seize power among the working people, that will intensify public struggles in the

form of a front, where the imperialists' monopoly capital will leave, paralyzing the economy. In such cases, the people will rise demanding security in their livelihood, and a physical battle will take place between them and the ruling class, and as imperialists attempt to intervene and North Korea steps in to block the intervention, military tension on the Korean Peninsula will escalate into a semi-war state. In such a semi-war state, the democratic revolution that has been performing the task of anti-capitalist class liberation will advance to a stage of carrying out the task of anti-imperialist national liberation. Class demands integrating with anti-imperialist demands will change to a democratic revolution, where a new government will be established severed from subordination to foreign forces and bureaucratic dictatorship."

In sum, the Leading Group of the Respondent perceives Korean society as, *inter alia*, an upside-down society where the privileged ruling class exercises sovereignty, and takes a stance that once the mass struggles develop into a nationwide uprising of the people, a situation will arise that will justify the exercise of the right of resistance, when they may use force or violence to overthrow the existing liberal democratic regime, and seize political power to establish a new progressive democratic regime under a new constitution. As will be examined below, such a stance has been confirmed as true in the alleged rebellion case involving Lee ○-Ki and others.

Next, seizure of power through elections will be examined.

The report on Strategies for Seizing Power asserts: "The Democratic Labor Party has no choice but to adopt the seizure of power by elections as its official strategy considering the reality of politics, where routine political activities are integrated into the outcome of an election. Even so, we cannot seize power only through an election. Therefore, the method by which the Democratic Labor Party can seize power is a victory in an election driven by mass struggles. We have to overcome

the offensive of the alliance of powers by staging struggles in elections, giving priority to mass struggles, and making cracks on the governance structure of Korean society with the overwhelming power of the people. The people's struggles should be staged with independent strategies and perspectives, without necessarily being bound by legislative activities and elections, and should rather lead legislative activities. The Democratic Labor Party should combine strategies for the National Assembly with strategies for mass movements. The Democratic Labor Party should conduct legislative activities backed by mass struggles." The Report shows that in order for the Respondent, with a small number of lawmakers, to seize power through elections, it must stage election struggles giving priority to mass struggles, and develop into struggles within the National Assembly.

"Progressive Democracy in the 21st Century" asserts that mass struggles are necessary not only for social reform but also for seizing power, saying that "Power of the people comes from struggles." Without mass political struggles, we cannot develop capacities for progressive politics, and even when we have progressive political capacities, we won't be able to gain overwhelming superiority in strength, if we fail to stage mass struggles vigorously. Also, if we fail to secure overwhelming superiority in strength, we won't be able to win a victory in the fight against the few privileged ruling class."

However, the Report on Strategies for Seizing Power contends that "a body of people's fronts will start as a case-by-case solidarity to meet people's demand and then develop into a permanent body for joint struggles," and "the body of fronts will stage struggles both legally and illegally."

In "For the Development of Theories that Change the World," Jeong ○-Hee asserts that, "The way to change the world is not to concentrate on struggles in elections and within the National Assembly, but to

promote mass struggles and to carry out struggles in elections based on nationwide uprisings of the people, which is the highest form of mass struggles; and as the method of staging such struggles, we must combine semi-legal and illegal struggles, fully utilizing legal struggles suitable for the preparation phase of social reform, combine economic struggles with political struggles while centering on the latter, align all current struggles of the people to the strategic goal of establishing an autonomous democratic government, overcome the left-wing or right-wing bias, and firmly adhere to the principle of building and developing capacities for reform through struggles. Also, in "About Establishing a Permanent Solidarity Mechanism of Progressive Camps," Jeong ○-Yeon contends that "We must develop our political capacities for the people's seizure of power through struggles in the National Assembly and mass struggles. The way for a progressive political party to effectively combine struggles in the National Assembly and mass struggles without falling into legalism, while conducting political activities focusing on political activities within the establishment, is to form and strengthen the solidarity of progressive camps encompassing all progressive people's organizations and thereby organize and stage joint struggles." Together with Park ○-Soon's view presented at the "Strategies for 21st Century Progressive Movements to Counter Neo-liberal Globalization," that "in order to accomplish the strategy of people's seizing power, we must establish a legal political party representing people's interest and build a 'semi-legal' unified front that can embrace various political struggles by the people," the above assertion demonstrates that the progressive political party can engage in 'semi-legal' activities through a unified front as a strategy for people's seizure of power. Han ○-Seok also argues in "A Progressive Party Asks the Way to Social Revolution" that "capacities for social reform could exist in an illegal, semi-legal or legal form."

Based on the arguments above, the Group's stances on the alleged rebellion case and the vote-rigging case in the primary for the

proportional representation candidates, and the violence in the Central Committee, as will be examined later, the Leading Group of the Respondent takes a position that, even in cases of seizing power through an election, it can use violence as a mean if necessary, illegally or semi-legally.

(5) Interim Conclusion

As examined above, progressive democracy as stated in the Respondent's platform as its ideological aims, differs in meanings between the literal meaning of the platform and what the Leading Group of the Respondent truly pursues and intends. The Leading Group of the Respondent views Korean society as a pariah capitalist or colonial semi-capitalist society subordinate to foreign powers, and asserts that such contradictions annihilate sovereignty of the nation and drive people's lives into poverty and ordeal and thus requires an alternative regime, and it seeks the solution in politics, proposing a 'progressive democratic regime' as the alternative regime. As the core values of progressive democracy, the Leading Group of the Respondent presents, *inter alia*, autonomy, democracy, unification and ecology that conforms to the characteristics of the 21st century, and proposes as its tasks national autonomy (autonomy), democracy (democracy) and national reconciliation (unification), and while the Group believes that the ultimate task under the platform is to realize socialism through 'unification' under a federation, people's 'democratic' reform must be accomplished first in South Korea to complete this task, and that to achieve 'unification' and 'democracy' as the tasks under the platform, 'autonomy' must be accomplished ahead of 'democratization' or 'unification.'

Also, as a means of realizing progressive democracy, the Leading Group of the Respondent argues for seizing power through elections, and the exercise of the right of resistance, although even in cases of seizing

power through an election, legal or semi-legal violence may be used as necessary, and when a situation justifying the exercise of the right of resistance arises through mass struggles and nationwide uprisings of the people, force or violence may be used to seize power by overthrowing the existing liberal democratic regime, and establishing a new progressive democratic regime under a new constitution.

In sum, the platform goals of the Leading Group of the Respondent are to, first realize progressive democracy through violence, and then based on this, ultimately realize socialism through unification.

E. Comparison of North Korean-Style Socialism with the Grand Revolutionary Strategy in the South

Since the Petitioner argues that the progressive democracy of the Leading Group of the Respondent pursues North Korean-style socialism, it is necessary to examine North Korean-style socialism and the North's strategy for revolution in the South, in comparison with what the Leading Group of the Respondent claims.

(1) Substance of North Korean-Style Socialism

(a) Constitution of North Korea and Charter of the Workers' Party of Korea

The preface of the Constitution of North Korea ("**DPRK Constitution**") provides that "The Democratic People's Republic of Korea is a socialist homeland of Juche which embodies the idea of and guidance by the great leader Kim Il-Sung. The great leader Comrade Kim Il-Sung is the founder of the DPRK and the socialist Korea." It also provides that the DPRK Constitution is a Kim Il-Sung constitution and Kim Il Sung is the eternal president, the sun of the nation, and the lodestar of the

reunification of the homeland. Article 3 of the DPRK Constitution prescribes that North Korea is guided by the *Juche* ideology and the military-first idea, and Article 4 declares that the sovereignty of North Korea resides in the working people. Also, the DPRK Constitution specifies the 'leadership of the Workers' Party of Korea' in Article 11 and the 'dictatorship of people's democracy' in Article 12. North Korea, while observing the principle of a socialist constitution, displays characteristics of a regime with a one-party rule and actually places the Charter of the Workers' Party of Korea above the DPRK Constitution. These indicate that all state powers of North Korea are concentrated on the party, state agencies at various levels acting as mere executive organs enforcing the policies decided by the party, and that Kim Il-Sung's *Juche* ideology and Kim Jong-Il's military-first idea serve as the standards for all state activities.

The Charter of the Workers' Party of Korea ("**WPK Charter**") expressly specifies Kim Il-Sung's *Juche* ideology as the party's only guiding ideology, and 'molding the whole society on the *Juche* ideology' and 'building a strong and prosperous socialist nation,' as the party's ultimate goals. The WPK Charter also describes the Korean People's Army as the 'party's army' under absolute control of the Workers' Party, and, as to the people's regime, it explains that "The people's regime is a socialist regime founded by Kim Il-Sung and centered on the people, and is the executor of the political line and policies of the party and operates under the leadership of the party; the party shall firmly establish the party's monolithic ideological system and the monolithic leadership within organs of the people's regime; the party shall guide the people's regime to strictly carry out the *Juche* ideology, the Military-First ideology, and the party's line and policies, which are the embodiment of such ideas; and the party shall guide the people's regime to strengthen the capability for uniform leadership over society and the capability for dictatorship of people's democracy, to support and maintain socialistic institutions, and to spur construction of a strong and

prosperous socialist nation." (Articles 52 and 53)

(b) Leadership Theory and Military-First Ideology

In "On Some Problems of Education in the *Juche* Ideology" published in 1986, Kim Jong-Il presented the 'revolutionary leadership ideology' or the 'theory of a socio-political organism' as the core of the *Juche* ideology. According to this, the masses need the right guidance of the leader in order to perform their role as the subject of history, and 'the leader, the party, and the masses' form one organism (socio-political organism), with the leader as the brain, sharing a common destiny. In "The Historical Lesson in Building Socialism and the General Line of Our Party," the work of Kim Jong-Il published in 1992, the theory of a socio-political organism develops into the theory of consanguinity, whereby the masses are bestowed immortal life by the 'fatherly leader' who leads the great revolutionary work to a road to victory (imposing filial piety and loyalty to the fatherly leader and the motherly party as moral norms). This is nothing more than an ideology with the aim of modeling the whole society on the *Juche* ideology, forcing unconditional obedience to Kim Il-Sung and his successors, and asking for reconstruction of thoughts to become human beings who give up individuality and exist only as part of a group that absolutely and unconditionally obeys and devotes themselves to the *Juche* ideology and the Supreme Leader.

North Korea regards the failure of socialism and the fall of the Soviet Union as a temporary phenomenon, and sees mankind's advances toward socialism as an immortal rule of history that cannot be interrupted by any force, and sees the reason for the temporary setback suffered by socialism as the absence of great ideas like the *Juche* ideology and great leaders like Kim Il-Sung and Kim Jong-Il. So, North Korea claims legitimacy of the one-leader dictatorship and hereditary succession, and presents the Military-First ideology that emphasizes the importance of

the military for revolutions and for the establishment of socialism.

In sum, North Korea's regime is a people's democratic dictatorship, a one-party dictatorship by the Workers' Party of Korea, and a one-person dictatorship, with a monolithic guiding ideology, justifying hereditary dictatorship, and ruled by Kim Il-Sung's *Juche* ideology and Kim Jong-Il's Military-First ideology.

(2) North Korea's Strategy for Revolution in South Korea

(a) Overview

As examined above, North Korea has been attempting to infuse the entire Korean Peninsula with the *Juche* ideology through a revolution, and North Korea's Strategy for Revolution in South Korea serves as a specific methodology for accomplishing it.

Before the 1970s, North Korea had defined the characteristics of revolution in South Korea as an 'anti-imperialist, anti-feudalism, democratic revolution.' At the Party Congress in 1970, North Korea officially adopted it as the 'National Liberation and People's Democracy Revolution,' and at the Sixth Party Congress, held in around October 1980, it expressly established Kim Il-Sung's *Juche* ideology as the only guiding ideology for the party and adopted as its goal, 'carrying out National Liberation and People's Democracy Revolution,' 'modeling the whole society on the *Juche* ideology,' and 'building a communist society.' According to this, among North Korea's goals for a revolution throughout Korea, the immediate goal is the 'National Liberation and People's Democracy Revolution,' and the final goals are 'modeling the whole society on the *Juche* ideology,' and 'building a communist society.' North Korea's Strategy for Revolution in South Korea at the time was called the 'National Liberation and People's Democracy Revolution ("NLPDR"),' whose details were clearly presented in "*A Revolution in South Korea Based on the Juche Ideology and a Theory*

on Unification of Homeland," a booklet published in celebration of the 30th anniversary of the founding of the Workers' Party of Korea. It depicts South Korean society as a colonial society subordinated to the United States politically, economically, socially, culturally and militarily, and the South Korean government as a colonial proxy regime of the United States or a pro-American fascist regime. Therefore, to revolutionize South Korean society, American imperialism must be first driven out of South Korean society to achieve national liberation, and the South Korean government, a proxy regime of the United States and a dictatorship regime, must be overthrown with people's power, and the people's government, which will be a national autonomous government, must be established.

North Korea's Strategy for Revolution in South Korea has been slightly changed since, *inter alia*, the fall of socialism in Eastern Europe. The term 'people's' was deleted from 'National Liberation and People's Democracy Revolution' in the WPK Charter of 1980, by an amendment in 2010. However, the changes in North Korea's Strategy for Revolution in South Korea had already begun on May 24, 1991, when Kim Jong-Il gave a lecture on the 'theory on the national liberation democracy revolution' to key officials in charge of operations in South Korea. "*Juche's Theory on Social Revolutionary Movements in Korea,*" written on the basis of this lecture, defines the nature of North Korea's Strategy for Revolution in South Korea as a 'national liberation democracy revolution,' and explains the changes in said strategy. After completion of the revolutionary movement theory in North Korea, its details became known to South Korea through verbal statements from North Korean spies in South Korea, and through North Korea's Pyongyang Broadcasting System and 'Voice of National Salvation,' a North Korean radio station broadcasting to South Korea. In October 2003, it was posted under the title "*Juche's Theory on Social Revolutionary Movements in Korea*" on the "National Salvation Front," a website for the "National Democratic Front of South Korea (later changed to

"Anti-Imperialist National Democratic Front" on March 23, 2005) operated by the North. Park ○-Soon, Lee ○-Ki, etc., of the Leading Group of the Respondent were also in possession of this treatise.

"*Juche's Theory on Social Revolutionary Movements in Korea*," introduces the 'National Liberation Democracy Revolution' theory as North Korea's Strategy for Revolution in South Korea, asserting that "the immortal *Juche* ideology is the most accurate guiding principle and leading ideology that ensures the victory of social revolutionary movements in Korea," and that "the ultimate guarantee for the final victory in people's revolutionary struggles in our age and achievements of socialism and communism lies in our determination to accept the *Juche* ideology as the only guiding idea and advance along the path directed by the *Juche* ideology." It clearly states that the *Juche* ideology is the guiding ideology for the "National Liberation Democracy Revolution," and specifies North Korean-style socialism based on the *Juche* ideology as the objective of the reform of South Korea.

(b) Perception of South Korean Society and Tasks under the Platform

In the National Liberation Democracy Revolution theory, North Korea defines South Korean society as a colonial society plundered by American imperialists politically, economically, culturally and militarily, a society of class exploitation, in which autonomy of the people at large, including laborers and farmers, is restrained according to classes by foreign monopoly capital, comprador capital and landlords; and a capitalist society irregularly and asymmetrically made, deformed and maimed as a consequence of increased foreign monopoly capital and subordinated capital augmented by the operation of the colonial sovereignty of the United States and the proxy regime serving the interest of the United States, to wit a 'colonial semi-capitalist society.'

Accordingly, North Korea perceives South Korean society, a colonial semi-capitalist society, differently from capitalist nations where the basic

mission is class liberation, and asserts that the basic missions for the revolutionary movements are the task of national liberation to terminate the colonial relationship with American imperialists and realize national autonomy, and the task of democracy to carry out reform in all sectors of society and establish people's democratic system. The National Liberation Democracy Revolution theory sees the divided Korea as the fundamental cause or grounds for the subordination to the United States, and therefore sees national liberation as a national task as well. Therefore, the key tasks for the revolutionary movements are national autonomy (autonomy), democracy (democracy) and national reconciliation (unification). Among them, the North contends that the essence of the contradictions in Korean society lies in the subordination to the United States and that 'autonomy' is the task that must be attained first ahead of 'democracy' and 'unification.'

As examined above, the Leading Group of the Respondent also perceives South Korean society in the same way as North Korea's National Liberation Democracy Revolution theory, and similarly views 'autonomy,' 'democracy' and 'unification' as the tasks under the platform, with 'autonomy' as a top priority task.

(c) Main Agents and Targets of Reform

The National Liberation Democracy Revolution theory defines the exploited class, the 'people,' as the main agent of revolutionary movements, and then divides the people into basic and auxiliary forces. The basic forces include laborers, farmers and students and intellectuals (mental laborers), urban petty capitalists (petty merchants, craftsmen and the self-employed), while the auxiliary forces include the urban poor, capitalists with anti-imperialist autonomous tendencies and national conscience (mainly small and medium-size businesses), soldiers and low-ranking officers of the armed forces of South Korea with anti-American autonomous tendencies, anti-imperialist, patriotic, conscientious priests, etc. It defines American-imperialist invaders as the

main target of reform, as well as reactionary bureaucrats colluding with American imperialists, comprador capitalists (capitalists siding with foreign powers), and landlords who are the proxy for a new colonial rule of American imperialists and class exploiters and oppressors.

As examined above, the main agent, the scope and the targets of reformation specified by the Leading Group of the Respondent are generally identical or very similar to those specified by North Korea's Strategy for Revolution in South Korea.

(d) Autonomous Democratic Regime: People's Regime

North Korea argues in the National Liberation Democracy Revolution theory, the theory on people's sovereignty, that the regime to be established by revolutionary movements will be an 'autonomous democratic regime,' where the people are the sovereign, and which will abolish national and class subordinations, establish social institutions that accommodate people's aspirational demands, augment people's strength and role to the maximum, and realize a genuine democratic regime guaranteeing people's political autonomy.

To achieve the autonomy of the nation (society), North Korea urges the removal of the United States' military forces from the South, the closure of the United States' military bases in the South, the disbanding of the ROK-US Combined Forces Command, the abolition of subordinate treaties and agreements between the Republic of Korea and the United States, the closure of the United States' ruling organs in the South, and the termination of the United States' interference in internal affairs. Moreover, it asserts that a liberal democratic regime is bourgeois democracy to serve the interest of the minority exploiting class, in which the working people are excluded from state power and have no rights, while national sovereignty is a disguise for advocating and covering exploitation and rule by the privileged few. For the democratization of society, it urges, *inter alia*, the removal of the fascist rule, the

democratization of socio-political life, the abolition of the National Security Act, the removal of comprador capitalists and landlords, who are domestic reactionary forces colluding with American capitalists, the eradication of reactionary bureaucrats, the establishment of people's democratic political regime, the nationalization of comprador capital, the land reform for terminating feudal land ownership, and the democratization of economic life realizing fair distribution of wealth.

Also, in connection with such revolutionary movements, North Korea specifies that the "self-reliant, revolutionary movements in Korea are revolutionary movements for the National Liberation and People's Democracy Revolution, based on national liberation for eradicating national confrontation in Korean society and realizing autonomy, and combined with democratic reform for removing basic factors of class confrontations and accomplishing democratic development."

As examined above, the autonomous democratic regime supported by the Leading Group of the Respondent is identical to the autonomous democratic regime asserted by North Korea under the National Liberation Democracy Revolution theory not only in terminology but also in the concept of class, as a people's regime aiming for people's democracy based on the theory of people's sovereignty. The Leading Group of the Respondent asserts that the existing political and economic structures and political powers must be destroyed in order to establish a progressive democratic regime, based on the same negative perception about the liberal democratic regime as North Korea, and supports the abolition of the Mutual Defense Treaty between the Republic of Korea and the United States of America, withdrawal of the United States' military forces from Korea, abolition of the National Security Act, diversification of production and ownership structures, and regulation of extreme conservatives, on substantially the same grounds as North Korea. Also, the Leading Group of the Respondent supports people's democratic reforms based on national liberation, which is tantamount to

national liberation people's democracy reform or the National Liberation and People's Democracy Revolution. Therefore, people's democratic reform advocated by the Leading Group of the Respondent can be viewed as being identical to North Korea's strategy for revolution in the South.

(e) Methods of Reform

1) Building a Unified Front

According to Kim Il-Sung, progressive democracy has a characteristic of alliance. He emphasized the importance of a unified front, saying, "Democracy demands that a national unification front be formed encompassing all anti-imperialist and patriotic classes, political parties and organizations and a broad alliance of patriotic people of all classes." The National Liberation Democracy Revolution theory asserts that in order to accomplish an autonomous democratic regime, which is the main goal (strategic goal) at the present stage, the creation of a democratic coalition government, based on people's anti-fascist democratic struggles, must be pursued as an auxiliary goal (tactical goal). North Korea claims that the middle class of society must be won over to completely isolate anti-revolutionary forces and ensure the victory of revolutionaries. To this end, North Korea asserts that it is necessary to organize a 'national democracy unification front' as a large-scale national organization, which is a perpetual and permanent strategic alliance based on laborers and farmers, and presents national autonomy (autonomy), democracy (democracy) and national reconciliation (unification) as the basic political platform of the unification front.

As examined above, the ideas of the Leading Group of the Respondent, that in order to achieve a people's regime a unified front basically comprised of laborers and farmers must be formed, that a permanent solidarity mechanism based on autonomy, democracy, and

unification must be established and fully utilized, and that the people's regime to be accomplished as a result of political struggles has the characteristics of a unified front based on extensive mass struggles, are identical to North Korea's Strategy for Revolution in South Korea.

2) Mass Struggles, etc.

In the National Liberation Democracy Revolution theory, North Korea asserts that mass struggles stimulate the people at large to become conscious of self-reliance, spur organization of the people, and provide key fighters and the people with experiences of struggles and opportunities to learn methods of struggles. Also, North Korea contends that revolutionary movements must choose the format and methods suitable for the timing of the reform, and apply them flexibly, taking into consideration the conditions and circumstances, and that while the revolutionary movements should be legal struggles in principle, it should combine semi-legal and illegal struggles. It divides a revolutionary movement into the revolution preparatory phase and the critical phase, emphasizing maintenance of capacities for the revolution, accumulation and strengthening of various mass struggles for the former phase, while combining political struggles with economic struggles, legal struggles with illegal struggles, and violent struggles with nonviolent struggles through mass struggles, and for the latter phase fully mobilizing all capabilities to stage a final decisive war. Furthermore, it stresses that a more in-depth study must be conducted from a self-autonomy perspective on the specific realities and peoples' demands regarding their livelihood in South Korea, and through such studies determine the seeds for propagation, which can powerfully touch the hearts of the public at large, and carry out the propagandistic task of regulating thoughts in a manner that ensures political significance and advanced values.

As examined above, the fact that the Leading Group of the Respondent approves the use of violent means in the process of revolution or reform of a regime when necessary, the specific methods of struggles it

proposes (political/economic struggles, legal/semi-legal/illegal struggles, etc.) and the fact that it stresses the necessity for mass struggles and developing the themes therefor can be viewed as identical or very similar to what the North advocates as the method of revolution or reform.

(f) Unification under Federation

In August 1960, North Korea proposed a federation of the South and the North, and in June 1973, proposed that South Korea and North Korea may have different structures and systems under one federation, and since then, North Korea has been advocating unification under a federation with 'one nation, one state, two systems and two governments' (the two systems will co-exist for the time being, but achieve complete unification through interactions and collaboration). Moreover, since 1991, North Korea has been advocating the formula for unification by a federation under which each regional government will maintain the current functions and powers including the power for politics, military and diplomacy. From this context, North Korea proposed a formula for a loose form of federation in the "June 15th South-North Joint Declaration" adopted at the South-North Summit in June 2000.

The National Liberation Democracy Revolution theory views the unification of the two Koreas as a basic task for revolutionary movements, and the establishment of an autonomous democratic government in South Korea as what directly leads to the founding of a unified federal government. The object of the federation must be the autonomous democratic government to be established in South Korea, and the tasks of renovating Korean society, that has the characteristics of a colonial semi-capitalist society, and realizing progressive democracy in South Korea, are political tasks that must be carried out by this autonomous democratic government under the guidance of the unified federal government. It asserts that the federation, as an interim system,

will finally develop into a socialist or communist nation with one system through people's democracy.

As examined above, the Leading Group of the Respondent advocates unification under a federation with 'one nation, one state, two systems and two governments' as an interim system, proposes the establishment of an autonomous democratic government realizing people's democracy as the premise for the ultimate unification of the systems, and asserts that the systems will ultimately converge into a socialist nation, which are also identical or very similar to what North Korea advocates as a formula for unification.

(g) Abstinance Arguing for Socialist Reform at the Present Stage

North Korea's National Liberation Democracy Revolution theory emphasizes that, even when conducting anti-landlord, anti-comprador struggles as class liberation struggles for the autonomy and democratization of society at the present stage, those struggles must not drive towards an extreme-left direction, claiming a socialist revolution or an establishment of a proletariat dictatorship, because only by doing so can they prevent errors in setting the direction and controlling the speed of revolutionary movements in South Korea, effectively organize and stage all struggles in line with their specific aims, ceaselessly expand the popular bases for revolutionary movements, and further strengthen capacities for reform.

In "Progressive Democracy in the 21st Century," the Leading Group of the Respondent asserts that it is still too early to advance anti-capitalist reform in Korean society, that "if we push socialist reform as our immediate task, we won't be able to draw active participation from the public, and it will also be a losing battle against forces with vested interests, and, in such case, building a new society will be impossible," and deleted the phrase 'socialistic ideals and principles' from the party platform, in a manner identical or very similar to what

North Korea advocates.

(h) Interim Conclusion

As examined above, the Respondent's perception of Korean society, its tasks for reform under the platform and their order of priority, main agents of reform, the sovereign and the scope of sovereignty, targets of reform, tactics for reform, goals of reform and a vision for unification under a federation, are generally identical or very similar to those of North Korea's National Liberation Democracy Revolution theory. Such identicalness or similarity exceeds fragmentary or partial categories.

F. Alleged Rebellion Case Involving Lee O-Ki and Others

(1) Facts and Progress of Case

(a) Escalation of Threat of Military Provocations by North Korea and Backgrounds of Case Investigation

1) Since around December 2012, after the rise of Kim Jong-Un to power following the death of Kim Jong-Il on December 17, 2011, North Korea's threat of military provocations against South Korea has been incrementally escalating. On December 12, 2012, North Korea launched the *Kwangmyongsong-3* missile, a long-distance rocket using ballistic missile technology. In response to a resolution adopted by the United Nations Security Council on January 23, 2013, condemning North Korea's launch of the rocket, North Korea threatened, "We have reached the final conclusion that denuclearization of the Korean Peninsula is impossible without the denuclearization of the world, and we will take arbitrary physical counteractions against US sanctions and pressure by expanding and strengthening military forces qualitatively and quantitatively, including nuclear deterrence." Thereafter, on February 12, 2013, North Korea conducted the third nuclear test, and on March 5,

2013, declared the termination of the Armistice Agreement in a statement issued by the Supreme Command of the Korean People's Army, announcing that the Armistice Agreement will cease to be effective on March 11th, when the Key Resolve joint military exercise with the United States kicks off, and that it will carry out pinpoint strikes, at random timing and targets. On March 26, 2013, in response to the deployment of B-52 bombers by the US on the Korean Peninsula, the North announced, "To defend our nation's autonomy and the dignity of the supreme leadership, we will respond with actual military actions, and our strategic missile units and all artillery corps, which will strike US military bases in the mainland, Hawaii, Guam, etc., of the United States, South Korea and all other enemies in its surrounding area, are put on combat alert level 1." Subsequently, on March 29, 2013, North Korea convened an emergency strategy meeting of the Supreme Command of Korean People's Army, and instructed the army to "mercilessly strike American imperialists' military bases in the mainland, Hawaii, Guam, etc., of the United States and military bases in South Korea, and if American imperialists dare to start fire, put strategic missiles on standby, and burn everything to ashes without leaving anything out when the order is issued." On March 30, 2013 in a joint communique of the government, political party and organizations, North Korea declared, "The inter-Korean relationship has entered a state of war." Also, on April 5, 2013, through its Foreign Ministry, North Korea recommended foreign ambassadors, and others in Pyongyang to leave the country, saying that it was unable to guarantee their safety due to the imminent war. On April 9, 2013, North Korea gave notice to foreigners in a statement by the spokesperson of the Korean Asia-Pacific Peace Committee that, "The war on the Korean Peninsula will be a full-scale war. The foreigners in Korea are advised to evacuate for their safety." Subsequently, on April 30, 2013, North Korea lifted the combat alert level 1, but when the arrival of the USS Nimitz, a nuclear-powered aircraft carrier, at the port of Busan was reported on May 7, 2013, North Korea threatened to turn five islands in the West Sea into a sea of fire,

and during the period from May 18 to 20, 2013, fired five short-range projectiles into the East Sea.

2) Meanwhile, Lee ○-Yun, the informant in the alleged rebellion case, had been a member of the Democratic Labor Party and the Respondent since joining the Democratic Labor Party as a founding member in 1999. Lee ○-Yun had small group meetings for ideological study, etc., on a regular basis with Hong ○-Seok, Vice-Chair of the Gyeonggi Chapter of the Respondent, and Han ○-Geun, Chair of the Election Committee of the Gyeonggi Chapter. After becoming skeptical of such activities Lee ○-Yun informed the National Intelligence Service of such fact in May 2010, and began to record the activities of such study group meetings from around August 2010, with a recorder provided by the National Intelligence Service.

(b) Progress of Meetings Involving Alleged Rebellion Plot

1) Cell Meetings, etc.

Hong ○-Seok had been meeting to study the *Juche* ideology as described above, and at one such small-group meeting on March 13, 2013, told Lee ○-Yun and Han ○-Geun that three instructions had been delivered regarding the current situation with a possible outbreak of war after North Korea's declaration to terminate the Armistice Agreement on March 5, 2013: (i) promptly form a solidarity in a state of emergency; (ii) mobilize the people as done during the mad cow disease incident; and (iii) collect information on US military bases, and, in particular, major facilities such as radar stations and electric power facilities. In response, Han ○-Geun talked about information on the radar station in Mt. Gwanggyo in Suwon, the Suwon Airfield, and the electric power facilities in that area.

On March 28, 2013, Hong ○-Seok told Lee ○-Yun and Han ○-Geun that an instruction was issued to hold cell meetings in connection

with the crisis of war on the Korean Peninsula, and that a cell meeting would be held in early April 2013. On April 5, 2013, Hong ○-Seok and Han ○-Geun held a cell meeting with Lee ○-Yun, where they watched a North Korean revolutionary film "Wolmido," about North Korean soldiers pledging loyalty to Kim Il-Sung while fighting against the combined forces of the Republic of Korea and the United States at the Battle of Incheon during the Korean War, held discussions about the film and conducted ideology studies. Hong ○-Seok made a remark glamorizing and praising Kim Il-Sung to the effect that "the homeland liberated by the General is the one in which families found happiness, and protecting the General is protecting the homeland," and while explaining the possible outbreak of war, Hong ○-Seok stated, "Let's do our part in our respective positions like those in the film who made a vow to give up their lives." Han ○-Geun then continued, "The value of loyalty to Kim Il-Sung is great," and given the worsening situation, resolved to "do our part even in the face of worsening circumstances."

On May 8, 2013, Hong ○-Seok and Han ○-Geun met Lee ○-Yun and began ideological studies under the theme, "On Firmly Establishing the Revolutionary Ideology of the *Juche*," which is Kim Jong-Il's teaching that justifies the *Juche* ideology and the Supreme Leader theory, and which praises Kim Il-Sung, and argues for recognizing the Great Leader as the center of the lives of socio-political groups in establishing the revolutionary leadership ideology. Hong ○-Seok said, "We must trust North Korea's judgment in making Kim Jong-Un the leader and strengthen our revolutionary ideology centered on the Leader." Han ○-Geun advocated Kim Jong-Un's power succession, saying, "The person who can learn the most essential part of the ideas, intent and strategies of the Leader and the General and of the socialist revolution, can play the head role." Hong ○-Seok also told Lee ○-Yun and Han ○-Geun to attend a meeting scheduled for May 10, 2013, stating that "About 150 people will gather from units operating at the provincial organization level in order to hear about the

current situation

from lawmaker Lee ○-Ki." On May 9, 2013, while giving out information about the meeting location, Hong ○-Seok instructed Lee ○-Yun to turn off his mobile phone and park the car 500 meters or 1 kilometer away from the meeting location.

2) Meeting on May 10, 2013

Upon notice of the meeting, approximately 130 members of the Gyeonggi Chapter of the Respondent, including Hong ○-Seok and Lee ○-Yun, had a meeting at ○○ Youth Training Center in Gwangju at around 22:00 on May 10, 2013 (the "**May 10th Meeting**"). Kim ○-Yeol, Chair of the Gyeonggi Chapter, and acting as the host of the meeting, stated, "The reality is that the crisis of war is still lingering on," and remarked to the effect that, "in the present situation in which we have to secure overwhelming dominance in capacities for national self-reliance in order to win a victory in the battle against the United States let's make a vow to advance together in this situation." Lee ○-Ki said, "The current situation on our Korean Peninsula in 2013 is a new history we have never experienced before," and that it was war time, and that wars can be classified into revolutionary wars and righteous wars, and then said, "The Korean Peninsula is currently at a very important juncture for determining revolution or anti-revolution." Lee ○-Ki also said, "This occasion today ... is an occasion to confirm our revolutionary resolution on how we can prepare for and face the great turning point where we renew our resolution for a new change in our history, which is unprecedented in 60 years after liberation or in the 100-year history of Korea (Joseon)." Noticing that Kim ○-Rae was late for the meeting during the speech, Lee ○-Ki reprimanded Kim ○-Rae for being late and adjourned the meeting in ten minutes, saying, "What should we prepare at this moment and for what should we fight? We are here to make a resolution on these ... I ask you to please come in a moment's notice like the wind when you are called up," then stressed the current situation, saying, "We are now in a war, not a quasi-state of war. The Supreme Command of the Korean People's Army invalidated the

Armistice Agreement on March 5. Invalidating the Armistice Agreement means a war. You should remember clearly that the war can unfold in a different form from previous wars."

3) Meeting on May 12, 2013

a) Gathering for Meeting

At 22:00 on May 12, 2013, Lee ○-Ki, Kim ○-Yeol, etc., held another meeting at the ○○ Teaching Hall in Mapo-gu, Seoul ("**May 12th Meeting**" or collectively with the May 10th Meeting, "**Rebellion Plot Meetings**"). Lee ○-Yun attended the meeting after meeting Hong ○-Seok at around 14:00 on May 12, 2013, and being informed of the time and place of the May 12th Meeting. Most of the 130 attendees at the May 10th Meeting also attended this meeting, and they included Lee ○-Ki, Kim ○-Yeon and Kim ○-Hee, who were National Assembly members of the Respondent, Aides to the National Assembly members, spokespersons, and former and current key party officials of the Gyeonggi Chapter, including Chair, Vice-Chair and Chairs of regional committees.

b) Opening Remarks by Kim ○-Yeol as Host

Acting as the host of the meeting, Kim ○-Yeol mentioned the arrival of the USS Nimitz, a nuclear-powered aircraft carrier, at the port of Busan, stating, "Our homeland is now facing a stark reality where we must choose war or peace, and the reality is that the whole nation's willingness to answer the war of aggression with a war of justice is getting stronger. ... maneuvers to invade the North with nuclear power is still ongoing; American imperialists' scheme to wage a war clearly demonstrates who the common enemy of our nation is and who our foe is," and "we must secure overwhelming dominance in the capacities for national self-reliance in order to win a victory in the decisive battle against the United States. We must fully devote ourselves and fight to

attain all of these."

c) Lee ○-Ki's Assessment of the Situation on the Korean Peninsula

Lee ○-Ki mentioned that the May 10th Meeting had been cancelled because of security issues, complimented attendees on coming to the meeting after turning off mobile phones and switching cars. Then, Lee ○-Ki assessed the situation on the Korean Peninsula, saying, "We are now in a period of a violent upheaval, a great era, where the old ruling order based on American imperialism is falling and collapsing, and is being replaced by a new order through the people's new and autonomous advances. ... The period of a violent upheaval on the Korean Peninsula will serve as the central stage for a global revolution to destroy the basis of the US world order and at the same time to demolish the empire under US hegemony." Lee ○-Ki went on to comment on the situation to the effect that, "We created our progressive party by cutting off the old two-party order built by American imperialism and shaking this new governance structure from beneath, established a new line of the progressive popular party, and took a brave, revolutionary step forward under a strategic plan to secure a bridgehead in the National Assembly through the General Election on April 11 last year, and American imperialists, intimidated by such revolutionary advances, waged full-scale offensives, but our comrades armed with loyalty to revolution or comradeship have internally and externally demonstrated the splendor of the army of comrades' units in the heroic battles and made our progressive party stronger." Lee ○-Ki also called the release of the report on the investigation into the vote-rigging case in the primary for proportional representation candidates the 'May 2nd incident', and remarked that, "We must not view the nature of the May 2nd incident as a mere internal coup, and the incident is the sectarianists' conspiracy to usurp the party hegemony (*) and an intent to ultimately cut off fundamentalistic revolutionaries and destroy the legitimacy of the revolutionary forces or the only

progressive forces expressed as autonomy, democracy and unification.”

Lee ○-Ki went on to say that North Korea’s launch of long-distance rockets and development of nuclear weapons were the best revolutionary expressions of self-reliance and hard fortitude, and great achievements, and further remarked that, “The abrogation of the Armistice Agreement is the North’s declaration of grand settlement cutting off the old link between Joseon and the United States with all its capacities, and what comes next is the war. North Korea has become a nuclear power and a menace to the United States. The invalidation of the Armistice Agreement is an important turning point in rooting out American imperialists’ ruling order.”

d) Lee ○-Ki’s Countermeasure Presentation and Proposed Discussion Topics

Lee ○-Ki suggested viewing the current political situation from a holistic perspective, stating, “For us, the revolutionaries in the South.....it is right to view the current situation from a holistic viewpoint of revolution in Korea, from an autonomous perspective as the Korean nation, and from a self-reliant and autonomous standpoint that we will take responsibility for the revolution in the South,” contending that “the current situation is not a matter of South-North confrontation but a showdown between foreign American imperialism and the Korean nation.” Lee ○-Ki also remarked to the effect that the North’s launch of missiles and nuclear weapons were matters of autonomy and sovereignty and thus are indisputable and must not be discussed, and stated, “What’s wrong with shooting when circumstances call for it? Let’s shoot! It is reasonable to shoot. Nuclear weapons, what’s wrong with it, it is the pride of the nation.....We must create opportunities and proudly shoot,” and by these remarks, repeatedly advocated North Korea’s launch of missiles and nuclear development. Lee ○-Ki also stressed that sometimes a gun, and force of a gun is more needed than a flower.

Lee ○-Ki urged the attendees first to be armed with faith in victory, and second to make political and military preparations and concretely build a system for physical and technological preparations, in order to take responsibility for the revolution in the South from a nationwide perspective. Lee ○-Ki also emphasized the current situation, asserting, "The current situation is a period of a great upheaval and a great turning point where the old ruling order is demolished to move onto a new stage; it is obviously a process where the autonomous capacities demonstrated by the Korean nation are advancing toward a victory by force."

First, as to the faith in certain victory, Lee ○-Ki remarked, "We must be ready for the second march of ordeal.....severe hardship is awaiting the fundamentalists who fight under the banner of autonomy, democracy and unification, and, at least for the comrades who are here now." He said to the effect that "the current situation will be a crisis for the ruling forces when it signals the fall of their order and system, but it will be a powerful revolutionary opportunity for those who are preparing for a new stage of revolution to demolish the basis of this order and system and establish a new order." Commenting that their activities can be patriotic in the North but treasonous to the ruling forces in the South, Lee ○-Ki appealed to the attendees to make a new, great turning point in the national history with the autonomous capacities of the South and the North, while describing the ruling forces in the South as the enemy.

Also, Lee ○-Ki remarked that "I.....the only forces carrying the banner of autonomy. The only banner to distinguish progressives from conservatives, and the real from the false in Korean society is that of autonomy. This autonomy is what no other forces can carry; and the target is not the North but foreign invaders and the forces threatening us are Americans.....for us to have a perpetual ruling system, the powerful political forces holding the banner of autonomy, democracy and unification must enter the National Assembly and form a political power

as a strong political party.....there must be an extremely small number of oppositions to the establishment.....out of the numerous and the most radical revolutionary forces, the size of the forces carrying the banner of autonomy is just that.....DJ is the establishment. They see us as anti-establishment. So, the issue is not about which party is the beneficiary or about struggles against political powers.....Change the root that makes the basis of this power now. Demolish the divided structure itself. How? I am pleading with you to make a new, great turning point in our national history through our own strength, about the autonomous capacities of the South and the North.....Despite the enemy's terrible oppression, maneuvers, slanders and omnidirectional suppression persisting for decades, we did not die. We have survived and emerged as powerful forces. It is wondrous to them. A wonder to our nation but a horror to them." What Lee ○-Ki meant by these remarks was that the forces formed around Lee ○-Ki emerged as the most powerful, radical and revolutionary forces carrying the banner of autonomy, democracy and unification.

Second, with respect to physical and technological preparations, Lee ○-Ki said that, in the event of a military clash, "We must demolish the physical foundation built by the ruling forces for more than 60 years. They will never step down voluntarily at the new turning point, the 60 years of war. They will try all kinds of sabotage, physical oppression and maneuvers. Of course, they will, it's a war. Let's hit back at the coming war. Let's put an end to the war; and physical and technological preparations mean what we have to prepare physically and technologically so that we can demonstrate overwhelming superiority in capacities against their attempt to defend themselves against us and break us up at the time of clashes between forces." Then, Lee ○-Ki suggested to the attendees to deliberate about its meaning together with other peers during the discussion. Citing the North's launch of the Kwangmyongsong-3 missile and three nuclear tests as examples of physical and technological preparations, as a creation of something out

of nothing, Lee ○-Ki once again stressed the crisis of war, saying: "We can create and realize an autonomous world, a reunified world, a new stage of autonomous society after driving out the Americans, and the dream of the Korean nation, which is an era with no exploitation and oppression.....Let us do or die in the final, decisive battle to build a new future throughout the nation, by forming one physical force, not just with talks or determination of a few people.....If the provocations against the North become real, wouldn't it be wise for us to put together our strength and will solidly, crush their provocations, creating momentum for a victory, and prepare ourselves for it?.....This occasion is not about how serious the current situation is, but about preparing ourselves for the great settlement of history. Let us put an end to this.....I would like to say that we are already heading for a war. A new form of war. Emphasizing the crisis of war as seen above, Lee ○-Ki urged the attendees to "rupture their rule and stand in the vanguard to strike the weakness of the front" for the "great conclusion of the 60 years in national history." After asking the question, "Are you ready to prepare yourselves for combat immediately when you receive an order?" and hearing yes, Lee ○-Ki finished the speech, saying, "I hope you immediately start preparing yourselves substantially, physically and strongly for the turbulent situation, instead of just making a resolution."

e) Questions and Answers

Answering Kim ○-Yong's question on whether the military issues will be highlighted while the US policy of economic sanctions against North Korea continues, Lee ○-Ki answered that the US could attempt provocation, taking the North's three nuclear tests as proof of the failure of its North Korean policy, and therefore it was necessary to prepare for that. To Hong ○-Seok's question on whether it was necessary to urge dialogue to produce a peace agreement in connection with our popular movements, Lee ○-Ki answered, "It is staging anti-war struggles externally, opposing a war, opposing a crisis of war and pleading for peace and therefore it is different from breaking through struggles to

eliminate the root cause of internal conflicts.....in view of the experiences from history and the process as developed in the Korean Peninsula, in the end, it will have to be resolved militarily. We have to firmly prepare ourselves for such a situation. Are the Armistice Agreement or the peace agreement important?" Also, to a question on the meaning of establishing political and military structures, Lee ○-Ki told the questioner to raise the question again during discussion sessions.

f) Regional Discussions

Kim ○-Yeol said that they had prepared "making strong political and military preparations with faith in victory" as a discussion topic and told the attendees to begin discussions, saying "please hold them as if they were wartime discussions." Lee ○-Ki remarked to the effect that, "Regarding the methods of discussion, different opinions will be sufficiently produced from each operation base and section. Please discuss practical issues, such as cases where requisition orders are issued to those working in national university hospitals or orders are issued to call up those who have driver's licenses for large vehicles." So, the attendees began discussions by region and by sector (East Gyeonggi, South Gyeonggi, Central West Gyeonggi, North Gyeonggi, Youths, and Central Dispatch).

During the discussion held by members from the South Gyeonggi region in which Lee ○-Yun participated, Lee ○-Ho who presided over the discussion as the representative of the region said: "Having faith in victory, and second, making physical and technological preparations.....in the period of a great upheaval, in the transition to peace, regardless of whether it is a war or pre-war stage, indiscriminate oppression of revolutionaries is expected. Then what do we have to prepare against the oppression?" Then Lee ○-Ho mentioned preventative detention by government, and our physical and technological preparations.

During subsequent discussions, Kim ○-Young mentioned his effort in

finding ways to buy firearms, and disruption of communications, Kim ○-Ki mentioned information on the oil pipelines of the United States military forces, and Lee ○-Ho suggested disrupting communications and cutting oil supply in wartime. However, Lee ○-Ho said: I think there are issues that need to be examined to decide whether we will go by region or as a whole depending on situations, and what is important is that we need guidelines; and I think we should work together because it is not something that should be done individually. According to the guidelines, operation bases need to be determined, and missions need to be given.....concerning communications, and then oil, petroleum, after such actions, there will be things that need to be examined and show what has already been discussed.

Choi ○-Seon said that a manual for uniform response should be promptly prepared for the members so that they could conduct a drill, based on the manual, and if circumstances arise, they needed to mobilize in a quasi-military or military manner, and attacking facilities would be possible only after systems and preparations to move like the military were ready. Yim ○-Suk mentioned the necessity to have a network and means of contact in wartime.

Lee ○-Ho remarked that "If we agree to arm ourselves, the remaining issue is how to do that. For example, there are toy guns imported these days..... Hose guns can be remodeled with a gas absorber and we can insert it into a gun. BB guns are not suitable even for shooting birds, but we can turn BB guns into those that can shoot people; we can find the basics about making weapons on the Internet..... Given this trend, even junior high school students can search the Internet and make bombs that can kill people. A lot of information is out there; and for example, if we find anyone capable of making bombs, we can recommend them and have them participate in making bombs. We need to think about that." Lee ○-Ho went on to say, "The largest oil tank in the world is in Pyeongtaek, and it is surrounded by nickel alloy and 90cm thick

bricks and cement; it is impossible to break it with bullets. It's not like using a car loaded with dynamites and blowing it up.....It's like the facility in Incheon. We've already done the research." Lee ○-Ho also emphasized that it would be most effective and important to go inside national infrastructure to destroy it, and mentioned railroad control facilities, the Hyehwa Telecommunications Office and Bundang Telecommunications Office as specific targets of destruction, saying, "In a state of war or critical phase, we have to cut things off like communications, railroads, gas and petroleum." Lee ○-Ho went on to say, "If the war breaks out or we have a similar situation in the South, we must fight staking our lives; When the critical phase comes as we discussed earlier and missions are given to each of us, which we need to complete for our lives.....for this, there will be certain matters requiring scientific, physical and technological attention."

Then, Han ○-Geun emphasized, "The most important thing is protecting our organization.....I think properly protecting our collective and organized capacities is important." Han ○-Geun also mentioned the extortion of weapons and military responses, saying, "Once the capacities are put together in an organized manner and life or death is confirmed.....from that time on, I think various countermeasures can be organized, and those measures can be made (·) and tried (·) like we saw in anti-Japanese armed struggles. There are many police substations and that's good.....Can we risk our lives to take weapons from them, or should we actually make military responses with those weapons? This can be a different issue depending upon the specific situation, but can our comrades take part in this urgent situation with organized and armed capacities?"

Then, Lee ○-Ho mentioned how to get help from the people inside of communications or gas facilities or to operate with them, and said, "Some places make gunpowder, and according to what we checked, most of them are in the northern area, and there are only two such places in

the southern area. If it is necessary, we will have to deal with them as well."

Thereafter, Hong ○-Gyu mentioned the necessity to formulate a manual or guidelines. Then Lee ○-Ho implied having obtained information on major facilities, saying, "In dealing with them, the addresses available on the Internet are all wrong. The addresses on the Internet for armories or storages of chemicals are false, covering up to hide where they really are..... we've done some research and found some information on those. There is actually a list about those. There are a quite many things that we need to prepare beforehand." Lee ○-Ho emphasized the necessity for collective determination beyond individual determination, saying, "This shouldn't be just random personal talk, and we need to raise the collective determination of our comrades and as we discussed earlier there should be something formulated in the form of a manual." Then, Han ○-Geun stressed 'capacities as an organization of the people and capacities of personnel,' saying that, "It shouldn't be just us, and it is important to expand the core capacities by fully mobilizing the capacities of our officials. To do this, wouldn't it be important to increase capacities to embrace the public at each operation base and to secure as many people as possible, those willing to move and respond together?"

g) Presentation of Outcomes of Regional Discussions

East Gyeonggi regional representative Kim ○-Rae stated, "We had various opinions about physical and technological preparations, including being armed with guns and attacking electric and communications sectors in order to severely damage the enemy," and announced that "rather than debating specific schemes, they talked about confirming the need to risk their lives together with their comrades."

South Gyeonggi regional representative Lee ○-Ho stated that opinions expressed included the "necessity for arming ourselves with weapons

when necessary, in order to take the lead in the situation," mentioning the necessity for preparing guns, target operations and bombs, and that "while going through group discussions, I thought that this kind of meeting is in itself a process of confirming our faith through specific discussions on matters like taking or making weapons or situations where everyone must risk their lives when we are given missions like destroying communications lines," and stressed that a more important issue is, "soliciting those who work in there to join us in order to effectively carry out physical strikes would also be a tremendously important operation."

Central West Gyeonggi regional representative Hong ○-Seok told the attendees there were opinions that sniper rifles must be prepared, or that radar bases, etc., could be paralyzed with advanced technology or hacking technology to paralyze major facilities, but those ideas were unrealistic, and that there were opinions that "physical and technological preparations should be led by the leadership and begin with protecting them."

North Gyeonggi regional representative Lee ○-Chun mentioned the need to formulate a manual in preparation for a state of war or regional conflict, and told everyone that there were opinions that it would be necessary to establish a system to closely monitor the daily activities of the US Army's civilian employees, build connection with labor unions in national infrastructure like power generation, subways and railroads, and disturb the rear properly; that it would be important to accurately identify government computer networks of administrative systems through government officials, members of metropolitan chapters and others, and prepare proper action plans; and that actual teams should be formed mainly with reserve forces and thorough preparations should be made.

Youth sector representative Park ○-Jeong told the attendees that there

were opinions that they should play a role in breaking through the situation through media and propaganda warfare, and with regards to physical and technological preparations stated that the occasion involved various opinions, "should we carry out bombing,.....should we have a drill, or should we hold a rally distributing handouts as a one-million member organization?" but proved to be an occasion for uniting, mentioning that they had been battling for the goal of "fortifying the youth sector and their self-reliance capacities," and that some suggested making detailed plans in advance, including making preparations for physical strength.

Central Dispatch division representative Wu ○-Young told everyone that there were many opinions on physical and technological preparations, stating that "We have this person who graduated from an engineering college and has been recently studying how to make explosives recently. I heard that the studying location was the second floor of the party headquarters," and furthermore spoke about the minimum number of personnel for information warfare and preparations regarding the enemy's communications networks and road networks, arguing that, "I think that the exact conclusion is that each of us should be clearly aware of his mission and his basic duty, and should make concrete preparations for revolutionary combats, revolutionary war at each operation base, and be ready for the critical phase."

Jo ○-Won, representing some other team, told the attendees that there were a lot of discussions about political and military issues without reaching a concrete conclusion, stating that "What is important during political turbulence or upheaval, especially at the start of a war, is protecting the leadership. It is important to have an organized command system centered on the leadership, and we also discussed military aspects; in addition to military command and report, there are a variety of works to do once a war actually breaks out, and we need to be

equipped with organized power if we want to take the initiative.”

h) Lee ○-Ki's Final Remarks

After the end of the regional presentation session, Lee ○-Ki commented, “Let me call them our conscience, our belief and views of the world that we have been building for 20 or 30 years. I think we have a consensus that the time has come for us to uphold those values.” He further commented that the enormous information on physical and technical preparations is already sufficiently accumulated at each business place of the attendees with details being confidential, mentioned Kim Il-Sung’s three ideals, i.e., the idea of *Jiwon* (or grand and far-reaching will), the principle of comradeship and the One Pistol Theory shown in Kim Il-Sung’s anti-Japanese armed struggles, and stressed that what was necessary at that juncture was the idea of the One Pistol, the value of which was greater than tens of thousands of nuclear bombs. Also mentioning the destruction of steel towers, Lee ○-Ki argued that numerous ways existed to destroy them, and that “if a new type of war breaks out simultaneously and throughout the country, let’s win a victory in the new war and make a new world.” Citing the Bolshevik Revolution as an example, Lee ○-Ki remarked that despite the huge damage, the revolution won the ultimate victory, and that they were going to win the battle in view of the reason for the division and the national history, stating, “Let us demolish the division and hand over the reunified new homeland and the age of victory to the next generation, never being daunted in the war to demonstrate the pride, splendor and dignity of the Korean nation against American imperialism, the strongest power in the world. Moreover, Lee ○-Ki emphasized that psychological and propaganda warfare are important in modern warfare, and were also necessary as physical and technological preparations. Then, mentioning the acquisition of guns in Busan or manuals for homemade bombs on the Internet, Lee ○-Ki said that “when you pay attention, you will start to notice” the reality that “they are already tracing it down.” Lee ○-Ki implied the diversity and importance of the information available from

the National Assembly in his position as lawmaker, saying: Let's take the real great step forward in our national history.....there are many forms of war, like information warfare, propaganda warfare and military warfare. Information warfare is very important. In particular, now, those in the upper class, especially those in Yeoeuido, have a weak mindset. The culture in Yeoeuido is worse than rubbish. It is like a house built on sand, in short. I acquire a lot of things there.....various things for information warfare. Lee ○-Ki closed his remarks by saying, "I would like to close my remarks by telling you that I trust that we will get together in a moment with infinite creative ideas stored at each operation base of ours through integrated, strong, collective power in a speedy battle upon an order to stage a full-scale attack. Disperse like the wind."

i) Kim ○-Yeol's Closing Remarks

To Kim ○-Yeol's questions to the attendees, "Comrades who came to this meeting for the first time and those who are here again, can you say that your faith in ultimate victory has increased by 100 percent today?" they answered, "Yes." Kim ○-Yeol stressed "loyalty to the death for revolutionary leadership" and closed the meeting with, "I would like to close this meeting now, with the promise that we trust our leader who presented this line of ideology and urged us to rise for this line in unity, and that this Gyeonggi line will take the lead in this anti-American war, this great war for unification of homeland, to ensure our victory, with our will for a strong step forward."

(c) Other Ideology Study, etc.

1) From around August 2010 until just prior to public investigations by the National Intelligence Service on July 16, 2013, Hong ○-Seok held dozens of small study meetings with Han ○-Geun and Lee ○-Yun, where they would study ideology through North Korean literature, etc., praising and glamorizing the ideas and leadership of Kim Il-Sung and Kim Jong-Il or instigating blind obedience and loyalty to Kim Il-Sung

and Kim Jong-Il, share their thoughts about the reading materials, vow loyalty to Kim Il-Sung and Kim Jong-Il, and advocate Kim Jong-Un's succession of power. During the period from around 2005 to 2009, the Respondent's Secretary General Ahn ○-Seop also held small meetings with Lee ○-Yun, etc., to study the *Juche* ideology or for other activities. For the small meetings, Hong ○-Seok strictly maintained and emphasized the security of reports on operations, and studies and activities of the group. Hong ○-Seok installed encryption software such as Truecrypt and PGP on laptops of Lee ○-Yun, etc., and explained how to use it, recommended them to change hard disks for laptops often, destroy USB flash drives storing documents, use SD cards that could be easily destroyed, and contact his secret phone using public telephones, and gave the secret phone number in writing instead of orally, and also frequently changed his secret phone.

2) In the course of the investigation in said case, a number of books and materials concerning the North's *Juche* ideology and strategies for revolution in the South were confiscated, including '*Juche's* Theory of Social Revolutionary Movements in Korea,' '*Juche's* View of Revolutionary Organization,' '*Juche* Philosophy, The Complete Works of Kim Il Sung,' etc., from Lee ○-Ki; 'Nature of Korean Society,' 'United States' Political and Military Invasion in Modern and Contemporary History,' etc., from Lee ○-Ho; 'Songun Politics: Life Line of the *Juche* Socialism,' 'On Firmly Establishing Revolutionary Leadership Ideology among Workers,' etc., from Hong ○-Seok; and 'The Complete Works of Kim Il Sung, The Selected Works of Kim Il Sung,' etc., from Jo ○-Won; and 'Historical Figures of Korea, Along with the Century,' a document file named 'URO,' etc., from Kim ○-Rae. Meanwhile, according to the pocket diaries confiscated from Lee ○-Ki, Lee ○-Ki planned the formation of a revolutionary organization, rules of the organization, strategic operations for revolution and operational tactics, etc., right after being released after serving sentence for the Democratic Revolution Party case.

(d) Other Meetings, etc.

Key members of the East Gyeonggi Alliance, which included most of the attendees at the Rebellion Plot Meetings, strengthened solidarity of the "autonomy line (progressive democratic group) whose political platform is autonomy, democracy and unification" by holding meetings such as the closing ceremony of the victory of truth propagation headquarters on August 10, 2012. At some meetings, the attendees sang in unison "The Song of Revolutionary Comrades," etc., inciting anti-American autonomy struggles. At such meetings, Kim ○-Hee, Kim ○-Yeon, Lee ○-Ho, etc., emphasized unity with Lee ○-Ki, chanting several times, "Comrade! you are me, I am you! I am comrade Lee ○-Ki. Let's fight!" indicating that Lee ○-Ki was the leader or nuclear of the East Gyeonggi Alliance. On June 15, 2012, Lee ○-Ki said, "*Aegukga* (or the Patriotic Song) was made by a dictatorial regime, and has never been officially designated as the national anthem."

(e) Progress of the Alleged Rebellion Case

Lee ○-Ki and others were prosecuted for inciting rebellion, etc., in the case referenced above, and the ○○ Court found them not guilty of some charges, such as possession of enemy-benefitting materials, but found them guilty of most of the charges, including plotting a rebellion (○○ Court 2013Go-Hap○○). On August 11, 2014, the ○○ Court, the appellate court, acquitted Lee ○-Ki and others of plotting a rebellion, on the ground that it was hard to find that they had reached an agreement to stage the rebellion, contrary to the judgment of the first instance court. For the rest of the charges, including instigation of a rebellion, the appellate court affirmed the first-instance court's judgment of guilt. Lee ○-Ki was sentenced to nine years in prison with suspension of public qualifications for seven years; Kim ○-Yeol to five years in prison with suspension of public qualifications for five years; Lee ○-Ho to four years in prison with suspension of public qualifications for four years; Hong ○-Seok, Jo ○-Won, and Kim ○-Rae to three years in prison with suspension of public qualifications for

three years respectively; and Han ○-Geun to two years in prison with suspension of public qualifications for two years (○○, Case No. 2014 No-○○). The defendants and the prosecution appealed the appellate court's decision, and the case is currently pending in the Supreme Court (Supreme Court, Case No. 2014Do○○).

(f) Respondent's Stance toward the Alleged Rebellion Case

1) Respondent's Response and Organizational Change

After release of the investigation result in said case, the Respondent's party spokesman rebutted it on August 30, 2013, stating that "Those were meetings of members, called by Kim ○-Yeol, the Chair of the Gyeonggi Chapter of the Unified Progressive Party, after consulting the officials of the chapter" in a briefing. Since then, along with developments in the related criminal cases, the Respondent has persistently claimed through official statements by the party spokesperson, floor spokesperson, etc., that the National Intelligence Service fabricated those cases.

On August 29, 2013, several months after a joint meeting of the Supreme Council Members and National Assembly members, the Respondent transformed the party structure into "Headquarters for Struggles Against Fabricated Rebellion Plot, Disbanding the National Intelligence Service, and Defending Democracy" over several months. Since then, it has been operating 16 metropolitan and provincial chapters as emergency system, and also changed the front page of its website to that of the "Unified Progressive Party's Headquarters for Struggle." What it claims on the website is also that said case is a fabrication and that Lee ○-Ki and others are innocent. In particular, it posted a petition form to be submitted to the court in which the criminal case is pending, encouraging the public to write a petition. After the decision of the first instance court was rendered, it posted, at the center of the front page, an audio file of Lee ○-Ki's final statement and the transcript of the

audio-recorded discussions at the May 12th Meeting. In October 2013, the Respondent published and distributed a booklet entitled "A Report on the Truth of the Rebellion Plot Fabricated by the National Intelligence Service," denouncing the alleged rebellion case as a political maneuver to break up progressive democratic forces and an act of oppression aimed at disbanding the Respondent and dismissing the transcript of the recording as fraudulent distortion and fabrication brought in along the uncovering of intervention in the presidential election by the National Intelligence Service. The Respondent posted such claims on its website as well. After the first instance court rendered its ruling on February 17, 2014, Hong ○-Gyu, the spokesperson, commented, "This is obviously a political trial and judicial murder turning back the clock of Korean society instantly to forty years ago."

After the prosecution of this case, Lee ○-Hee, party leader, and Oh ○-Yun, Kim ○-Yeon and Lee ○-Gyu, National Assembly members, remarked that said case had been fabricated by the Government. On September 2, 2013, Lee ○-Hee, party leader, and Chairs of metropolitan and provincial chapters and regional committees of the Respondent throughout the country held mass protests and press conferences in the National Assembly accusing the National Intelligence Service of fabricating the rebellion case and objecting to the National Assembly's plenary session for a motion to allow arrest, and constantly condemned the prosecution of the case. The "Progressive Politics," the official journal of the Respondent, appealed to readers to participate in the protests, denouncing this case as a pro-communist framing, and carried other articles criticizing the prosecution.

In particular, on August 11, 2014 after the appellate court's ruling, Lee ○-Hee, party leader, criticized the National Intelligence Service and the Government, saying, "Although all defendants were found not guilty of the rebellion plot and the existence of the 'RO' was denied, the National Security Act, the rusty sword from the old division structure,

and its provision of 'inciting rebellion,' persisting out of synchronization with the principles of law, are keeping seven detainees from their families and colleagues."

2) Nomination of Candidates for the General Election and Municipal Elections

On October 30, 2013, the Respondent nominated Hong ○-Gyu, an attendee at the Rebellion Plot Meetings, as a candidate for the Gyeonggi Hwasung *Gab* constituency in the by-election for National Assembly members, and on June 4, 2014, nominated about 33 persons who had attended the Rebellion Plot Meetings as candidates for municipal elections.

(2) Whether the Alleged Rebellion Case is Imputable to the Respondent

(a) First, the progress of the Rebellion Plot Meetings will be examined. On April 28, 2013, Kim ○-Yeol, Chair of the Gyeonggi Chapter, asserted the necessity for a lecture on the current situation. On April 29, after discussions at the Standing Executive Committee, the third meeting of the Steering Committee of the Gyeonggi Chapter resolved to hold a lecture on May 10. On May 6, 2013, the meeting of the officials of the Gyeonggi Chapter finally decided to hold the lecture. Kim ○-Jeong, Secretary General of the Gyeonggi Chapter, arranged the lecturer and place for the May 10th Meeting under instructions from Kim ○-Yeol, the Chair of the Gyeonggi Chapter. Lawmaker Lee ○-Ki was invited as lecturer with the help of Ahn ○-Seop, Secretary General of the Respondent.

Also, the Respondent admitted in its arguments in this case that most of the attendees of the Rebellion Plot Meetings were former or current officials of the Gyeonggi Chapter, and that all of them were members of the Respondent. Indeed, most of the 90 or so attendees whose personal

information has been identified were former or current Chairs and Vice-Chairs of the Gyeonggi Chapter and regional committees of the Gyeonggi Chapter. Kim ○-Yeol, Chair of the Gyeonggi Chapter, acted as host of the meetings involving the alleged rebellion plots, and Kim ○-Rae and Hong ○-Seok, Vice-Chairs of the Gyeonggi Chapter, led the discussions as regional representatives and presented the outcomes of the discussions at the plenary session after the group discussions.

Therefore, it is clear that the Rebellion Plot Meetings were a series of events of the Gyeonggi Chapter of the Respondent in view of the facts that they were held at the proposal of the Chair of the Gyeonggi Chapter of the Respondent and after the resolution of the Gyeonggi Chapter, all attendees at the meetings were members of the Respondent, and most of the attendees were officials of the Gyeonggi Chapter, including the Chair.

(b) However, these meetings cannot be viewed as events limited to the Gyeonggi Chapter of the Respondent. The Rebellion Plot Meetings were attended by Lee ○-Ki, Kim ○-Yeon, and Kim ○-Hee, three out of five National Assembly members of the Respondent, their aides, and the spokesperson, and the Respondent's Secretary General Ahn ○-Sup arranged National Assembly member Lee ○-Ki to give a lecture on the current situation on the Korean Peninsula and how to respond to it, and offered a discussion topic for regional discussions. The majority of the attendees at the meetings were also Central Committee members or representatives of the Respondent.

Also, Lee ○-Ki is found to be the head of the East Gyeonggi Alliance in view of the following: on August 10, 2012, the attendees at the meetings, including key members of the East Gyeonggi Alliance remarked frequently that Lee ○-Ki was the head or center of the East Gyeonggi Alliance, including at the Closing Ceremony for Victory Campaign HQ, where they chanted in unison, "Comrade, you are me, I

am you, Comrade Lee ○-Ki! Fight!" expressing unity with Lee ○-Ki; and in adjourning the May 10th Meeting for security reasons, Lee ○-Ki ordered the attendees to gather instantly upon a call for the meeting, and the attendees dispersed immediately and then held the May 12th Meeting according to Lee ○-Ki's instructions.

Meanwhile, party leader, National Assembly members, Supreme Council members and other major officials of the Respondent learned the details of the Rebellion Plot Meetings at least from the disclosed transcript of audio-recorded discussions and through the criminal trial proceedings. The Respondent also faced a grave existential threat when criticisms poured in and a petition was filed for its dissolution in this present case. Despite such facts, the Respondent has been persistently claiming that this case was a fabrication by the National Intelligence Service. It transformed the party structure into the "Headquarters for Struggles Against Fabricated Rebellion Plots, Disbanding the National Intelligence Service, and Defending Democracy" and has been demanding the acquittal and release of Lee ○-Ki in a party-wide support, and also nominated the attendees at the meetings as candidates for public officials.

(c) In view of the progress of the Rebellion Plot Meetings, the positions and roles of the attendees within the Respondent, the fact that the above-mentioned meetings were held by the Leading Group of the Respondent including the key members of the East Gyeonggi Alliance, the position of Lee ○-Ki who led these meetings as the head of the East Gyeonggi Alliance, and the Respondent's stance advocating and defending this case at a party-wide level, the above-mentioned meetings are imputable to the Respondent.

(3) Nature of the Rebellion Plot Meetings

(a) When North Korea declared the abrogation of the Armistice

Agreement and that inter-Korean relationship entered a state of war, Lee ○-Ki took the situation as a state of war, and stressed, to the attendees, that they must take responsibility for the revolution as autonomous forces in South Korea from a holistic viewpoint of revolution in Korea, and make physical and technological preparations to finish the war since the situation would inevitably be settled militarily in the end. Lee ○-Ki also offered physical and technological preparations, etc., as a discussion topic, and urged them to complete their missions in unity and in a speedy battle when they received an order to stage a full-scale attack. Moreover, Lee ○-Ki praised North Korea's launch of long-distance rockets, nuclear tests, etc., as the pride of the nation while displaying hostility toward the Government of the Republic of Korea, etc., calling them the 'ruling forces in the South' or enemies. The meeting host Kim ○-Yeol also encouraged the attendees to make vows to dedicate themselves to the fight to win a victory in the great anti-American war in the contemporary situation and to achieve overwhelming superiority in the revolution for self-reliance of the nation. The attendees also discussed the means of strategic envelopment, including destruction of national infrastructure, disruption of communications, manufacture of bombs and extortion of weapons, and how to respond in an organized manner. Hong ○-Seok and others received instructions to collect information on key facilities before the meetings and shared related information, and held cell meetings in which they confirmed their roles in wartime and pledged loyalty to Kim Il-Sung.

Some of the attendees were subject to punishment for their involvement in the Democratic Revolution or Youth Movement Council case, etc., whose guiding ideology was the *Juche* ideology, or had pledged loyalty to Kim Il-Sung and Kim Jong-Il, while studying the *Juche* ideology with North Korean revolutionary films, texts, etc., on a regular basis. Lee ○-Ki and other attendees at the meetings routinely used North Korean terminology and slogans, such as the "idea of one pistol," "1211 ridge," "march of ordeal," "let us smile while passing

through a rough path," "revolutionary optimism" and "revolutionary comradeship." Some attendees possessed the original copies of the books, etc., published by the North about the North's strategies for revolution in the South. Key members of the East Gyeonggi Alliance sang in unison "The Song of Revolutionary Comrades," etc., instigating anti-American struggles for autonomy at other meetings. Lee ○-Ki once said in a media interview that "*Aegukga*" was not a national anthem.

Moreover, in light of the fact that Lee ○-Ki conceived the formation of a revolutionary organization, strategic operations and operational tactics right after being released after serving a sentence for the Democratic Revolution Party case, and also told the attendees at the Rebellion Plot Meetings that it was time to realize the belief and values that they had been pursuing for the last 20 to 30 years, Lee ○-Ki, etc., have long been aiming for the reform of Korean society, and the alleged rebellion case appears to be what has been sought as part of such aim.

(b) As examined above, Lee ○-Ki and other attendees at the Rebellion Plot Meetings were key members of the East Gyeonggi Alliance, followed North Korea's *Juche* ideology, perceived the situation at the time as a state of war, and held the meetings led by Lee ○-Ki as head of the alliance to side with North Korea and carry out violent acts if a war broke out, including the destruction of national infrastructure in the Republic of Korea, manufacture and extortion of weapons, and disruption of communications.

G. Other Cases

(1) Vote-rigging Case in the Primary for Proportional Representation Candidates

From March 14 to 18, 2012, the Respondent held a primary by

conducting online, mail and on-the-spot voting to determine the order of candidacy for the proportional representatives for the 19th General Election. Lee ○-Ki joined the Respondent as a party member in December 2011, about three months before the primary. In the voting, a total of 41,500 votes were cast (a total of 36,000 votes online). Lee ○-Ki won about 11,100 votes (about 10,100 votes online) in the general proportional representation list, winning the first place by a landslide. Yun ○-Soon ranked first on the women's list, and Jo ○-Sook topped the list of persons with disabilities. As a result, Yun ○-Soon was selected as the first candidate as winner of the first place on the women's list, Lee ○-Ki as the second candidate as the winner of the first place on the general list, and Kim ○-Yeon as the third candidate as a youth representative. Jeong ○-Hu, Kim ○-Nam and Park ○-Seok were given the fourth through sixth place, respectively, as open proportional representation candidates, through a yes-or-no vote. All of them became proportional representative members of the National Assembly.

In this case, some members of the Respondent cast votes online by illegitimately using others' names or by proxy to have the candidates they supported win. Those involved in this case were prosecuted for interfering with the party primary, etc., and some of them were found guilty and convicted.

(2) Violence at the Central Committee

On May 12, 2012, a Central Committee meeting was held to adopt, *inter alia*, an innovation plan which included a proposed amendment to the platform and resignation of all proportional representation candidates. When Sim ○-Jung, a co-representative, declared "unanimity" for the draft amendment to the platform, which was about the 'realization of a progressive democratic society,' dozens of party members from the East Gyeonggi Alliance attempted to take the podium by force, and assaulted

and inflicted injury on the Respondent's co-representative Jo ○-Ho and others; the related persons were later convicted for the violence case.

(3) Poll Rigging at the ○○ *Eul* Constituency

Meanwhile, for the upcoming 19th General Election, the Respondent and the Democratic United Party agreed to jointly nominate a candidate, and conducted an opinion poll from March 17 to 18, 2012. In the course of the opinion poll, some members of the Respondent supporting Lee ○-Hee, who was planning to run for candidacy in the ○○ *Eul* constituency, checked the progress of the opinion poll conducted by a polling organization on the date of the primary, and caused the party members and supporters to give wrong answers about their ages, etc., or caused the party members or supporters, who did not live in the constituency and were unqualified for answering the poll, to answer by way of subscribing for multiple telephone lines. The Respondent's members involved in this case were found guilty and convicted for interfering with the primary.

Lee ○-Hee became the sole candidate for the ○○ *Eul* constituency but resigned thereafter, taking responsibility for the poll rigging incident.

(4) Interim Conclusion

The vote-rigging in the primary for proportional representation candidates, the violence in the Central Committee and the poll rigging in the ○○ *Eul* constituency confirmed above were the attempts by members of the Respondent to have the candidates they supported win by violent means, instead of debates and votes. Such conduct is unacceptable in a democratic society, and violates the principle of democracy by distorting the democratic formation of opinions within the party and undermining the function of election systems.

H. Respondent's Genuine Objectives and Activities

(1) Former members of the Democratic Labor Party or those of the Respondent who used to operate together within the Respondent, but who had left the party as a result of being defeated by the Leading Group of the Respondent for party hegemony, or who left because they realized the true identity of the Leading Group of the Respondent, would know the inclination and true nature of the Leading Group of the Respondent better than anyone else. Their observations about the Leading Group of the Respondent include, "I found out that common sense and reasoning in progressive movements are paralyzed particularly in reckoning the National Security Act cases" (Sim ○-Jung); "for the Autonomy Faction, North Korea is sacred and inviolable. A certain faction moved like an underground party. It carried out every order it received from them." (Roh ○-Chan); "Unless the party breaks up with the pro-North group within the party, it won't be able to gain citizens' trust" (Jo ○-Su); "For the NL, following North Korea is like a religion. The essence of the crisis is that Kim Il-Sungists now occupy the main room of the party." (Ju ○-Hwan); "The needle of NL's compass never moves, since it is out of order and fixed in one direction." (Lee ○-Wu); The Autonomy Faction is just a *jongbuk* entity that never takes responsibility nor debates, and that never learns nor studies." (Hong ○-Hwa); "The hegemonism based on the *jongbuk* stance of the Autonomy Faction within the party is the largest factor totally impairing the party" (Kim ○-Cheol); "The Autonomy Faction is a kind of unified front that moves under the guidance of the Workers' Party of North Korea." (Jin ○-Kwon); and "For the NL line, North Korea is alpha and omega." (Kim ○-Young) These remarks appear to be the most accurate description of the inclination and true nature of the Leading Group of the Respondent.

The Leading Group of the Respondent disguises the realization of North Korean-style socialism as a "task of the democratic revolution," by

applying tactics to cause confusions in terminology and deception, just as stated by Lenin, "Cry out democracy until democracy fails. You must not hesitate to break the law, tell lies, use deception, and conceal truth." Terms such as autonomy, democracy and unification, used by the Leading Group of the Respondent, are also used in an entirely different manner from their generally accepted meaning. It frames the fight between 'the left and the right' as a conflict between 'pro-nation, democracy and people versus anti-nation, democracy and people', 'peace versus war, unification versus anti-unification, and reconciliation versus division.' Also, it arms itself with internalized faith and has been operating in an organized manner without revealing its deeply concealed identity. The Leading Group of the Respondent has been attempting to destroy the liberal democratic system without any hesitation about using violent means.

(2) The Genuine Objectives and Activities of the Respondent Will Be Examined

(a) As discussed above, the objectives of the Leading Group of the Respondent under its platform are first to realize progressive democracy by force, and based thereon finally to achieve socialism through unification.

As also examined earlier, the background and process through which the Respondent introduced progressive democracy to its platform, the fact that the Leading Group of the Respondent had an inclination to follow North Korea and the progressive democracy advocated by the Leading Group of the Respondent were generally identical or very similar to the North's strategy for revolution in the South in terms of almost every aspect including perception of Korean society, tasks for the reforms under its platform and their order of priority, main agents of the reform, the holder and scope of sovereignty, goal of the reforms, tactics for the reforms, and the formula for unification under federation, and

such identicalness or similarity exceeds what can be viewed as fragmentary or partial identicalness or similarity.

(b) Meanwhile, the Leading Group of the Respondent has been pursuing a revolution based on the people's democratic reform theory, and, as part of mass struggles, has been engaging in various social issues for, among others, annulment of the Korea-US FTA, complete reexamination of the construction of the Jeju Naval Base and abolition of the National Security Act, in collaboration with outside organizations. The Leading Group of the Respondent has also been consistently advocating North Korea's position as to human rights issues and three-generation power succession, and has been blaming the Government of the Republic of Korea for incidents obviously attributable to North Korea, such as the launch of long-distance missiles, the sinking of the warship *Cheonan* and the bombardment of Yeonpyeong island. They have been allowing the persons involved in the *Ilsimhoe* case to continue to hold key positions of the party and the vote-rigging case in the primary for proportional representation candidates is what goes beyond a mere violation of law, but is an attempt to destroy the principle of democracy by rendering the election system to become nominal. Their rejection of the national anthem or hoisting the *Taegeukgi flag* are other instances denying the legitimacy of the Republic of Korea.

Such inclination was more obvious in the alleged rebellion case involving Lee ○-Ki and others. When the threat of armed provocations by the North was escalating after it declared abrogation of the Armistice Agreement, the attendees at the meetings took the situation as a "critical phase" and even demonstrated a willingness to destroy national infrastructures for the sake of North Korea, and, at the same time, discussed how to stage information and propaganda warfare and made remarks praising the leadership theory and the Military-First ideology. Nevertheless, the Respondent has taken no disciplinary action to expel

Lee ○-Ki, etc., from the party, but transformed its structure into Headquarters for Struggles Against Fabricated Rebellion Plot, Disbanding the National Intelligence Service, and Defending Democracy and has been advocating them at a party-wide level and condemning the Government.

(c) Based on the facts confirmed above, and the fact that the objectives and activities of the Leading Group of the Respondent can be viewed as those of the Respondent in light of its dominance over the Respondent, the genuine objectives and activities of the Respondent are found to be first to realize progressive democracy by force, to begin with, and finally to achieve North Korean-style socialism eventually.

6. Whether the Respondent Should be Dissolved

A. Whether Objectives or Activities of Respondent Violate the Basic Democratic Order

(1) Specific Danger to Cause Actual Harm to Basic Democratic Order

As examined above, the violation of the basic democratic order referred to in Article 8 (4) of the Constitution does not mean a minor violation or breach of the basic democratic order, but refers to those cases where the objectives or activities of a political party pose a specific danger that has potential to cause actual harm to the basic democratic order of Korean society, to such an extent as to require imposition of restraints on the existence of the political party, which is otherwise an indispensable element of a democratic society.

(2) Whether Respondent's Objectives Violate the Basic Democratic Order

(a) As affirmed above, the basic democratic order referenced in Article 8 (4) of the Constitution is based on pluralism, which believe in individual's autonomous reason and is premised on the relative veracity and rationality of every political view, and it means a political order formed and operated on the basis of democratic decision-making and that of the basic principles of freedom and equality, which eschew all violent and arbitrary rules, respect the majority, and are considerate of the minority; and more specifically it includes the principle of sovereignty of the people, the respect for fundamental human rights, the separation of powers, the multi-party system, as the key elements.

(b) Now, it will be examined whether the genuine objectives of the Respondent, to wit the realization of progressive democracy by force and the subsequent establishment of North Korean-style socialism on the basis of progressive democracy, violate the basic democratic order.

The North Korean-style socialist system that the Respondent aspires to establish accepts the political line presented by the Worker's Party of Korea as an absolute line, and the essence of rule that it pursues is the peoples' democratic dictatorship associated with a specific class doctrine of that party and one-person dictatorship based on its leadership theory. In this regard, North Korean-style socialism pursued by the Respondent fundamentally violates the basic democratic order under the Constitution of the Republic of Korea. In a society ruled by the North Korean governing ideology of class dictatorship, the principle of national sovereignty, guaranteeing sovereignty to all citizens, would be denied. It would also make it difficult to enjoy even the most basic forms of freedom of expression and freedom of thought, which are the basis of free expression of political opinions, and political engagement based thereon. All of these strongly connote a situation with a severe violation

of individuals' basic human rights. Moreover, it would make it impossible to maintain the political process to form democratic opinions through competitions among multiple political parties, and would also render useless the separation of powers and the independence of judicial power, which are the institutions to protect human rights and democratic process. While those elements could be guaranteed nominally, their actual functions could hardly be expected.

Under North Korean-style socialism, the direction of political decision-making is predetermined based on its absolute class line doctrine, and this line is enforced by the people's democratic dictatorship. Such structure severely oppresses the likelihood of different opinions and constructive political criticism. In this regard, the ideological premises of North Korean-style socialism are fundamentally different from the basic democratic order under the Constitution, the basic ideology of which is substantive uncertainty and indeterminacy and which stresses procedural legitimacy in democratic decision-making. The installation of such a North Korean-style socialistic regime will make it impossible to maintain the elements that comprise the core of the Constitution.

Also, the Respondent claims that in order to realize progressive democracy, it must overthrow the liberal democratic regime through use of violent means, including mass struggles, nationwide uprising of the people, and the right of resistance, which directly violate the basic democratic order of the Republic of Korea premised on democratic decision-making, which eschews all violent and arbitrary rules, and respects the majority while being considerate of the minority.

(3) Whether the Respondent's Activities Violate the Basic Democratic Order

(a) Of all activities of the Respondent, the rebellion plot case is

what clearly demonstrates the genuine objectives of the Respondent. Rebellion is an attempt to threaten the very existence of the Republic of Korea as a nation by staging a public riot with the aim of preventing exercise of the sovereignty on its territory or normal functioning of constitutional order, and Lee ○-Ki and other lawmakers and party members of the Respondent specifically discussed the methods of inciting a rebellion and causing harm to the existence of the Republic of Korea, in itself clearly violating the basic democratic order.

(b) In the past under the authoritarian regime that oppressed human rights, it was once believed that peaceful pro-democracy movements were practically impossible and that social reform was possible only by resorting to violence. However, democracy in Korean society has advanced significantly and it is now more than possible to seek social changes based on the ideas of democracy. When a policy is constitutional in substance and sufficiently feasible, this society guarantees means to institute the policy, by legislation or by other means, through a process of persuading the majority of citizens. If any statute hinders democratic decision-making through free exchange of opinions, supports authoritarian rule, there are ways to nullify it through constitutional adjudication. Under the Constitution, even a radical idea deserves, in principle, to be asserted and discussed as a political opinion, and it is an anachronism to believe that the legendary struggles of the past relying on violent means are also workable against today's Government of the Republic of Korea with democratic legitimacy.

Therefore, the Respondent carried out or attempted to carry out its anachronistic belief by use of force, and advocated the systematic and deliberate use of violence to achieve its goals, in such cases as the rebellion case, the violence in the Central Committee, etc., directly violating the ideas of democracy.

(c) A number of the Respondent's activities examined so far,

including the alleged rebellion case, the vote-rigging case in the primary for proportional representation candidates, the violence in the Central Committee, and the poll rigging in the ○○ *Eul* constituency, deny or undermine the existence of the nation, the democratic formation of opinions, the rule of law, etc. In terms of the means used and the nature of the activities, they constitute active use of violence and deception as a way to achieve the Respondent's purpose. Therefore, said activities of the Respondent violate democratic ideas.

(4) Whether Objectives or Activities of the Respondent Violate the Basic Democratic Order

(a) Due to the inherent nature of a political party seeking control over government or power, its objectives always tend towards action and reality. The objectives or political ideology pursued by a political party are not mere ideas but connote physical capacity and willingness to materialize them in reality. Therefore, when the objectives of a political party are unconstitutional, it constitutes a sufficient ground to find that there is a substantial danger posed by that party as long as it continues to exist as one of the legitimate political parties. In particular, the Political Parties Act requires a political party to have a certain number of party members (at least 1,000 members per metropolitan/provincial chapter) and metropolitan/provincial chapters (at least five chapters) (Articles 17 and 18 of the Political Parties Act) in order to qualify for registration as a political party. In the case of the Respondent, its decisions are made by the leading group, and it has also been operating with 16 metropolitan/provincial chapters and tens of thousands of party members.

Also, in view of the backgrounds, modus operandi, nature, and the inclination of the Leading Group of the Respondent, the stance of the Respondent toward the conduct of its members, the activities of the Respondent examined earlier, including the alleged rebellion case, the

vote-rigging case in the primary for proportional representation candidates, the violence in the Central Committee and the poll rigging in the ○○ -Eul constituency, are not one-time or accidental incidents that happened to violate the basic democratic order, but were committed based on the genuine objectives of the Respondent and are highly likely to recur in the future under similar circumstances. Furthermore, as examined earlier, in view of the fact that the Respondent approves the possibility of seizing power by force, the Respondent's activities appear to expose a specific danger that has potential to cause actual harm to the basic democratic order. In particular, in the alleged rebellion case, the Leading Group of the Respondent headed by Lee ○-Ki perceived the North's declaration of the abrogation of the Armistice Agreement as entry to war, and devised a plan to destroy national infrastructure, siding with North Korea. The Leading Group of the Respondent went so far as to discuss schemes to undermine the existence of the Republic of Korea in detail. Such activities clearly reveal the genuine objectives of the Respondent, and go beyond the freedom of expression and double the specific danger that it poses against the basic democratic order. Considering the current situation on the Korean Peninsula with South Korea and North Korea in a state of acute political and military confrontation, such a danger cannot be dismissed as merely an abstract one.

In sum, the genuine objectives of the Respondent or the activities conducted based thereon are found to have posed a specific danger that has a potential to cause actual harm to the basic democratic order of Korean society.

(b) Any political party with freedom of political opinions is entitled to raise questions about currently prevalent ideas in the course of pursuing its own alternative vision for the future of the national community. A political party should be able to propose, and bring up for discussion, its own political alternatives, even touching upon such

matters as elements of the basic democratic order under the current Constitution, and such efforts deserve respect as devotion to its duties as a political party. In this context, it is not impossible for a political party to voice a view that appears to be more or less contrary to the basic democratic order in the process of presenting its own political opinions. To wit, every political party is guaranteed the freedom of political debates and criticism about ideas accepted as the elements of the basic democratic order. That will encourage sound discussions and political reflection in Korean society, and contribute to the formation of more mature political goals, and ensure that they are widely shared throughout this community.

However, the objectives or activities of the Respondent revealed so far go far beyond political criticism of the elements of the basic democratic order under the Constitution, and amount to intentional, deliberate, active and militant attempts to destroy or overthrow the basic democratic order under the Constitution. While the Respondent claims that it does not deny the legitimate decision-making process guaranteed in a democratic society, such claim holds true under situations favorable to it, and it has never given up the line of struggles that approves the use of violence if necessary to achieve its purpose, as has been revealed by the objectives and activities of the Respondent examined earlier.

In sum, the objectives of the Respondent and the activities conducted based thereon violate the basic democratic order under the Constitution.

B. Whether the Principle of Proportionality Would be Violated

(1) Principle of Proportionality for Dissolution of a Political Party

As affirmed above, considering the nature of the system for judicial dissolution of political parties as a last resort or supplementary means,

even if all requirements expressly provided for in Article 8 (4) of the Constitution are fulfilled, a decision to dissolve a political party could be constitutionally justified, only where there is no alternative means to address the alleged unconstitutionality of the political party; and where the social benefit that could be gained through such a decision exceeds the disadvantage of restricting the political party's freedom of activities and the social disadvantage incurred by the serious restraint on a democratic society entailed by the decision to dissolve the political party.

(2) Review in Detail

Based on the following factors, we find that a decision to dissolve the Respondent as a political party is not against the principle of proportionality.

First, the objectives and activities of the Respondent are materially unconstitutional.

The ultimate objective of the Respondent is to realize North Korean-style socialism. North Korean-style socialism recognizes the Worker's Party of Korea as a political entity with an absolute status based on a political line of specific class doctrine and ideas of the dictatorship of people's democracy, and in order to bring this socialism to the Republic of Korea, the Respondent has contemplated the use of illegal, or semi-legal and violent means, and is not ruling out seizing power through a nationwide uprising of the people.

As a political party, the Respondent has connived and at times encouraged the activities of North Korean followers within the party, and when they came under attack from the outside, attempted to legitimize their ideas and activities. This indicates that the Respondent's structure easily sustains within its decision-making process, ideas to attack, eliminate or overthrow the basic democratic order under the Constitution,

with its North Korean-following ideology disguised as progressive democracy. When a stance approving the use of violence against a group with an opposing view becomes the political majority, it is not difficult to expect that they will control or ignore, or even oppress by force, the opinions of the political minority, in light of experiences from history in North Korea.

Such political stance of the Respondent is never compatible with the basic democratic order under the Constitution, and is also an attempt to damage or abolish the basis of the basic democratic order under the Constitution by attacking it actively and deliberately, and therefore requires an urgent removal of the danger it poses to Korean society. Even when public political forums in Korean society operate properly against a political party that has a certain unconstitutional element in its objectives or activities so that the portion of the political party posing dangers is substantially restrained, there is still the need to dissolve that party if its objectives and activities are materially unconstitutional, in light of the preventive function of the system for judicial dissolution of political parties.

Second, the exceptional situation of the Republic of Korea should also be taken into consideration.

Due to the exceptional situation of a divided nation, South Korea currently confronts North Korea, an anti-government organization attempting to destroy, reform and overthrow the regime of the Republic of Korea according to its grand strategies for revolution in the South. Since the Korean War, North Korea's military provocations against South Korea have continued, and still continue to this day. Despite the new historical trend of the 21st century post-cold war era, two divided political and economic systems exist on the Korean Peninsula in sharp conflict with each other due to ideological confrontations, and North Korea still views South Korea as a target that must be ultimately

overthrown or replaced. The basic democratic order of the Republic of Korea is a target of attacks by a real enemy.

Freedom and prosperity, and remarkable developments we enjoy today as a result of industrialization and democratization are great achievements that Koreans should be proud of, but the fact that all of these were earned with an indescribable amount of efforts and sacrifices must never be forgotten. Looking back at the experiences of Germany, Italy, and others where totalitarian political parties held the reins of power in the last century, we can learn that once the basic democratic order collapses, restoring it requires a tremendous amount of efforts and social sacrifice.

Third, we will examine the principle of minimum damage, i.e., whether there exist alternative means.

With regard to the danger that the Respondent poses to Korean society, one may possibly question whether it is necessary to go so far as to disband the party itself, when imposing criminal penalty on the party members who violated the law and expelling them from the party would suffice. However, criminal penalty can only punish individuals whose illegal acts have been ascertained, and does not eliminate the danger of the party itself, allowing the rest of its members to continue the unconstitutional activities under the cover of the party. Also, the expulsion or qualification review of individual party members is a mere replacement of personnel, and is hardly expected to work meaningfully, considering the behavior of the Leading Group of the Respondent displayed in the vote-rigging case in the primary for proportional representation candidates that resulted in the Second Split of the party. While the Constitution provides an institutional means to expel National Assembly members who engaged in or made improper acts or speech (Article 64 (3) of the Constitution), that would also be hardly dependable, in light of the experiences from history.

The Leading Group of the Respondent is positioned to make its unconstitutional objectives as party policies and put them into action at any time. Therefore, in order to remove the danger inherent in the Respondent, which is disguised as a legitimate political party and is attempting to destroy the supreme value under the Constitution, the basic democratic order, while operating with a substantial amount of subsidies from taxpayers' money, there is no alternative other than the decision to dissolve the party.

There is a view that since the system for judicial dissolution of political parties must serve as a last resort and a supplementary means, intervention in the political process through a judicial decision to dissolve a political party must be avoided to the maximum extent possible as long as public political forums in Korean society are working properly. However, while such a view is reasonable in principle, applying it to the Respondent would be overly optimistic and inappropriate. For example, the Nazi Party in Germany, which was the main culprit of the Second World War and inflicted deep scars on the human race by committing inhuman crimes during its reign, is a valuable precedent. In the general election in May 1928, the Nazi Party won only 2.6 percent of votes, gaining a mere 12 seats in congress. Yet, two years later in September 1930, the party earned 18 percent of votes and won 107 seats. Then, another two years later, in the election in July 1932, the Nazi Party won support from 37.2 percent of all votes and acquired 230 seats, emerging as the ruling party. As such, the Nazi Party was transformed from a minority party with support from 2.6 percent of voters into the ruling party that succeeded in winning 37.2 percent of votes in just 4 years. Although this would not be a common case, no one can be sure that another such incident will not recur in the future, in view of the dynamics of real politics.

It is true that the Respondent's political base has been reduced due to public perception of the party as being followers of North Korea

(*jongbukjueui*; North-following doctrine) after the two party splits and events such as the alleged rebellion case. In particular, in the 5th Local Election on June 4, 2014, the Respondent won only 3 seats for proportional representatives in metropolitan/provincial councils, 31 seats for municipal council, and 3 seats for proportional representatives for municipal councils, and gained about 4.3 percent of votes for metropolitan/provincial proportional representation. Such an outcome is in stark contrast with the 5th Local Election on June 2, 2010, where the Democratic Labor Party, the forerunner of the Respondent, won 3 seats for municipal mayors, 24 seats for metropolitan/provincial council members, and 115 for municipal council members. Although the public approval rating and the number of active members of the Respondent have significantly dropped, the total number of party members is still tens of thousands, which is not inconsiderable. In particular, while the leading group of the party is small in number, it is one strongly united group that displays cohesion and has a crucial influence on the selection of candidates for proportional representative members of the National Assembly or policy decision-making. Considering this, it is possible for the Respondent to expand its political footing at any time, depending on how the political situations or circumstances develop. Such possibility has been witnessed in the case of the Nazi Party discussed above.

Fourth, we will now examine whether there are social needs (balancing test) to order the dissolution of the party.

Liberal democracy and market economy under the Constitution, adopted at the founding of the Republic of Korea in 1948 after liberation from Japanese colonial rule, are universal values, have served as the foundation for the industrialization and democratization of the nation, and have brought about the liberty and national prosperity enjoyed today. The Constitution has strived to defend itself in order to maintain the values that it upholds, against the challenges from North Korea operating under a one-party and one-person dictatorship disguised as utopian

communism. That is our nation's will. The legitimacy of the Republic of Korea, succeeding to the legitimacy of the Provisional Government of the Republic of Korea, and which had originated from *Dangun's hongik-ingan* (or humanitarian) ideal, is the very constitutional order that embodies the basic ideology and values, and the identity of the nation. Urging North Korean-style socialism is anti-constitutional, and a phenomenon that goes against the universal values shared by mankind and the current of history.

We acknowledge that a decision to dissolve a political party is likely to place limitations not only on the political party's freedom of activities but also on the political freedom of citizens who support the ideology pursued by the political party, and also limit the breadth of political ideas or ideology acceptable in our society, restricting pluralist democracy to a certain degree. However, even though Korean society pursues pluralistic democracy, tolerance may be withheld for any forces that entirely deny pluralist democracy itself, and the political freedom to support a political party that pursues an ideology encouraging destruction and abrogation of the basic democratic order may be limited to such an extent. While protection of political parties is also an important value under the Constitution, protecting a political party that denies the Constitution under which it is protected and attempts to reform the current regime founded under the Constitution on the grounds of relative and pluralistic values is impermissible because it can cause the destruction of the constitutional order, which is the basis for the protection of political parties, and violation of the national identity.

Therefore, the benefit that can be gained by a decision to dissolve a political party against the Respondent is the protection of the basic democratic order, which includes the principle of the people's sovereignty, the guarantee of fundamental rights, the multi-party system and the separation of powers, which are the supreme values under the Constitution, that the Respondent attempted to destroy. Furthermore, a

decision to dissolve the Respondent could serve as a grain of wheat on this land and provide the land on which progressive political parties pursuing progressive ideas and ideologies without following totalitarianism or North Korean ideology and regime can grow and thrive, thereby guaranteeing pluralism and relativity of democracy. The social benefits, which are the protection of the basic democratic order and the guarantee of pluralism and relativity of democracy, are far greater and more important than the detriments caused thereby, which are fundamental restraints on the Respondent's freedom of political activities and a limited restriction on democracy.

In conclusion, we also recognize that there are social needs (balancing test) to order dissolution of the Respondent.

(3) Interim Conclusion

This Court bears the heavy knowledge of the sacrifices, devotions, commitments and efforts of numerous people, including the April Revolution and the Pro-Democracy Movement in 1987, until the Republic of Korea finally came to establish, in reality, the basic democratic order provided by the Constitution, and therefore, we must be acute in sensing any danger posed by any forces attempting to neutralize or undermine the fundamental values upheld by the Constitution.

The Leading Group of the Respondent attempts to actively and deliberately attack and destroy, or ultimately abolish the basic democratic order under the Constitution, while pursuing North Korean-style socialism.

Therefore, the decision to dissolve the Respondent is justified under Article 8 (4) of the Constitution as an inevitable solution to effectively eliminate the danger posed against the basic democratic order, and thus is not against the principle of proportionality.

C. Dissolution of the Respondent

As reviewed so far, the objectives or activities of the Respondent violate the basic democratic order, and there is no other alternative means to resolve the unconstitutionality of the Respondent in light of the material unconstitutionality inherent in the objectives and activities of the Respondent and the exceptional reality facing the Republic of Korea, and the benefits to be gained by a decision to dissolve the party are far greater than the detriment caused by the decision, and thus we find that there are social needs (balancing test) to order the dissolution of the Respondent.

Therefore, the Respondent must be dissolved.

7. Whether Members of the Respondent in the National Assembly Must be Deprived of Their Seats

There are no express provisions under the Constitution or statutes on whether the National Assembly members of an unconstitutional political party must keep or be deprived of their seats, when the party is ordered to be dissolved by the Constitutional Court. However, on the following grounds, all National Assembly members of the Respondent must be deprived of their seats.

A. National Assembly Members as Representatives of the Nation as well as Members of a Party

(1) The members of the National Assembly are required to perform their duties as representatives of the entire nation with priority given to

national interests in accordance with their own conscience, without instructions or interference from anyone else (Article 46 (2) of the Constitution). At the same time, with the advancement of modern party democracy, members of the party were elected with the nomination from, and the support or backup of, the party, and the members of the National Assembly came to also occupy positions representing the ideology of the political party to which they belong, under *de facto* influence of the party's regulation or line in the formation of political opinions.

(2) Article 192 (4) of the Public Official Election Act provides that a proportional representative member of the National Assembly shall be relieved of his/her office, if he/she secedes from the party for any reason other than "dissolution," etc., of the party, meaning that when a party voluntarily dissolves itself, the proportional representative member of the National Assembly should not be released from office. This provision attempts to properly balance the tension between the status of a National Assembly member as a representative of the nation and as a member of the party.

B. Essential Effect of the System for the Judicial Dissolution of Political Parties and Issue of Forfeiture of Their Assembly Seats

(1) When a political party is involuntarily dissolved by a decision of the Constitutional Court, there are no provisions under the Constitution or the statutes on whether the National Assembly members of the political party must be dismissed from office. Therefore, the issue over the forfeiture of National Assembly seats of members of the unconstitutional political party being dissolved must be determined in light of the purpose and the essential effect of the system for the judicial dissolution of unconstitutional political parties.

(2) The essence of the system for the judicial dissolution of political parties is to protect citizens and defend the Constitution by excluding in advance a political party whose objectives or activities violate the basic democratic order, from the process of formulating citizens' political will. A decision to dissolve a political party found to be unconstitutional based on meeting strict requirements, arises from the idea of defensive democracy, and in such extraordinary situation, the status of a National Assembly member as a representative of the nation is unavoidably sacrificed.

(3) A National Assembly member's status as a representative of the entire nation does not logically conflict with the spirit of defensive democracy, and furthermore the National Assembly members' ability to engage in political activities as a constitutional organ and as delegated by citizens' free will regardless of affiliation with any political party, is only possible within the boundaries of our Constitution when the basic democratic order pursued by the Constitution is respected and implemented, the protection which does not extend to political activities of the affiliated National Assembly member to realize the unconstitutional political ideology of the party ordered to be dissolved by the Constitutional Court.

(4) Permitting National Assembly members of an unconstitutional political party to be dissolved to maintain their legislative seats is equivalent to permitting them to continue their representation in the formation of political will, as well as actions to realize the unconstitutional political ideology of the party, which will effectively permit the party to exist and continue its activities. Therefore, not depriving the National Assembly members of a dissolved political party of their legislative seats is contrary to the function of the system for the judicial dissolution of unconstitutional political parties to defend the Constitution, or the ideas and principles of defensive democracy, and moreover makes it impossible to ensure the practical effect of the judicial decision to

dissolve the party.

(5) As reviewed above, depriving the seats of the National Assembly members of a political party dissolved by the Constitutional Court's decision is a basic effect originating from the essence of the system for judicial dissolution of political parties, and therefore whether or not there express provisions exist on this issue is not a factor to be considered, and regardless of whether they were elected in constituencies or as proportional representatives, they all cease to have constitutional justifications to maintain their status upon a decision to dissolve the party to which they belong, and therefore, they are deprived of their seats at the National Assembly.

C. Sub-Conclusion

Therefore, based on the essential effect of the system for the judicial dissolution of political parties, and in order to effectively ensure the intent and purpose of the decision to dissolve the political party, we now hold that all National Assembly members of the Respondent are deprived of their seats at the National Assembly.

8. Conclusion

A. It is therefore ordered that the Respondent be dissolved and all of its members of the National Assembly be deprived of their seats in the National Assembly, as specified in the holding. This decision is based on the consensus of all Justices, except for the dissenting opinion of Justice Kim Yi-Su as presented in Section 9 below, and the concurring opinions of Justices Ahn Chang-Ho and Cho Yong-Ho as presented in Section 10 below.

B. This is a case of first impression involving the dissolution of a political party in Korean constitutional history, yet globally, many other countries do not have the same or similar system for the judicial dissolution of political parties. That is because democratic means, such as discussions and debates as well as persuasion are believed to be the most effective means of controlling political parties attempting to destroy the fundamental order of the constitution and bringing down their political basis. However, given that the framers of the Constitution of the Republic of Korea saw it differently and have outlined the system for the judicial dissolution of political parties under the Constitution, this means that this country has a different constitutional solution to address political parties denying the basic democratic order, unlike those countries with different constitutional solutions.

This Court understands the concern that this decision could entail the regression of democracy and atrophy in the activities of progressive parties. However, this decision to disband the Respondent is only a declaration that a party pursuing North Korean-style socialism may not be protected by our democratic Constitution of the Republic of Korea, which is based on pluralism, and clarifies that new and diverse alternative ideas may always be presented and discussed in Korean society in so far as they are not in violation of the basic democratic order. In fact, we believe that this decision, by eliminating North Korean-style socialism from the political arena of this country, would create an opportunity for the progressive parties not following such an ideology to grow and thrive on this land.

Meanwhile, we are wary of the possibility of other consuming ideological debates that could be triggered by the dissolution of the Respondent. Our conclusion that the Leading Group of the Respondent pursues North Korean-style socialism is the outcome of a year-long review into which a vast amount of time and efforts were invested, and given the dissenting opinion within our Court, there should not be any

stigmas or attacks on the ideology of any other ordinary members of the Respondent who had no close relationships with the Leading Group of the Respondent, or any other political parties that might have had amicable relationships with the Respondent.

We hope that this decision will bring about more mature democratic debates and ideological diversity in Korean society, based on respect for the basic democratic order.

9. Dissenting Opinion of Justice Kim Yi-Su

I concur with the majority opinion on the significance of the system for the judicial dissolution of political parties, and the grounds for the judicial dissolution of a political party, but I disagree with the argument of the majority opinion that the Respondent's objectives or activities violate the basic democratic order and that the party needs to be dissolved. My opinion is as follows.

A. Necessity for Strict Interpretation and Application of Grounds for the Judicial Dissolution of a Political Party

(1) As reviewed above, it is undisputed that grounds for the judicial dissolution of a political party require strict interpretation and application. To wit, in interpreting the grounds for the judicial dissolution of a political party, their literal meaning should be subject to strict interpretation, and in surveying materials or bases for determining the substance of the objectives or activities of the political party, their relevance to the respondent political party should be thoroughly reviewed. Also, verification of facts in a civil litigation requires a comprehensive examination of all the evidence in light of common

experience absent special circumstances, and proof by high probability, so that a common person would not doubt the resulting judgment (Supreme Court, Case No. 2008Da6755, Oct. 28, 2010), and certainly this principle must also be strictly followed in the present case to which the Civil Procedure Act applies *mutatis mutandis*.

Furthermore, materials for determining the objectives or activities of a political party mostly consist of "acts of expression" requiring certain interpretation, and as with any other acts of expression, the meaning of political remarks and activities can differ depending on who, under what context, and by which methods such remarks or activities took place. In light of this, determining the meaning of such acts of expression must exclude the subjective views of the interpreter as much as possible, and be based on an objective, and commonly accepted interpretive methodology. To wit, it is necessary to comprehensively review not only the surface meaning of the specific acts of expression at issue, but also the status and intent of the actor, the circumstances under which the expression was made, and the overall intent of the expression.

(2) In addition, the requisite strict interpretation and application of grounds for the judicial dissolution of a political party must not permit any logical fallacy or leaps. When minor fallacies accumulate to produce a huge logical leap, perhaps leading to a decision to dissolve a political party, that would be very tragic for the history of our democracy.

The Petitioner argued that proving the "genuine long-term objectives or ulterior objectives," as the most important task in a review for the judicial dissolution of a political party, and one reference witness recommended by the Petitioner actually compared this to a 'jigsaw puzzle.' Although seemingly a reasonable argument, its problem lies in its assuming as truth what requires proof. To wit, despite needing to ultimately prove, *inter alia*, that the Respondent has 'ulterior objectives,' the argument assumes this as a given premise. In addition, the

comparison to a 'jigsaw puzzle' also proves inappropriate. A political party's decision-making process or the policy line formed through such a process is not a combination of pieces that can be physically separated like those on a flat puzzle board.

In order to prove that the Respondent has ulterior objectives, one must discover affirmatively that there is a secret platform shared among the members of the Respondent, or find a compelling and firm evidence that the stated objectives of the Respondent, i.e., the objectives under the platform, are a mere façade for concealment. To the extent that such evidence may be compared to 'pieces of a puzzle,' it is obvious that those 'pieces of the puzzle' should have the original unprocessed and intact shapes. This means that those pieces should not be cut and deformed by the subjective view of the person attempting to find ulterior objectives.

Furthermore, the Respondent is a political party with nearly 30,000 active dues-paying members. Even if it would be impossible to find out what each individual member of the Respondent has in mind, at least the determination of the political aims of the majority of its members should not be based on the inclinations of an extremely small fraction of its members. The assumption that 'one hundred members of the Respondent have an idea that violates the basic democratic order, and thus the rest of the members also have the same idea,' is tantamount to erroneously applying what is true for some to the whole, and is nothing more than a fallacy of hasty generalization that 'see one and you've seen them all.' Therefore, accurately identifying the political ideology and aims of the Respondent requires that the unknown majority of the Respondent's members, and not just the known minority of its members, not be forgotten. Even the remarks or activities of key party officials or other members who can lead opinions within the Respondent should be carefully examined so that their actual influences over the Respondent's membership are not overestimated.

B. History of the Respondent

As the basis to determine whether the objectives or activities of the Respondent violate the basic democratic order, the formation of the Respondent will be examined, focusing on the personnel composition of the Respondent, debates over the establishment and amendment of its platform, and major activities.

While the opinion of the Court also has a section on the history of the Respondent, its description focuses on the Respondent's formation and party split, and examines the details separately throughout its opinion; although some overlapping occurs, the history of the Respondent will be examined here again with some additional details to the extent necessary for review.

(1) Relationships between the Respondent and the Democratic Labor Party

Newly founded on December 13, 2011, through a merger of the Democratic Labor Party, the People's Participation Party, and the New Progressive Alliance, an organization formed mainly by a faction that defected from the New Progressive Party, the Respondent pursues 'progressive democracy' under its platform and charter. In terms of the composition of members, the Respondent is largely a subset of the Democratic Labor Party that existed right before the creation of the Respondent, and as admitted by the Respondent in its arguments in the present case, the 'progressive democracy' advocated by the Respondent is in practice identical to the 'progressive democracy' that the Democratic Labor Party introduced to its platform at the Second Party Policy Convention in June 2011. In other words, the Respondent has its root in the Democratic Labor Party, and the history of the Respondent is deemed to have begun with the Democratic Labor Party and its parent,

"People's Victory 21 for Democracy and Progress ("**People's Victory 21**")."

(2) Formation of the Democratic Labor Party

(a) On December 26, 1996, when the National Assembly passed bills such as the one amending the Labor Standards Act to legalize lay-offs, the labor movement circles recognized the necessity to form an independent political power. Consequently in 1997, the Korean Confederation of Trade Unions ("**KCTU**") took the lead in forming the People's Victory 21, with the participation of the National Alliance for Democracy and Unification of Korea ("**National Alliance**"), the Progressive Political Alliance, Political Solidarity, etc., and nominated Kwon ○-Gil, then KCTU Chair, as its candidate for the 15th Presidential Election. Shortly after the 15th Presidential Election, the People's Victory 21 decided to transform itself into a political organization aiming at founding a progressive political party, and created a Preparatory Committee for the formation of a progressive party (Democratic Labor Party), appointing Kwon ○-Gil as the standing representative of the committee.

In the formation process of the Democratic Labor Party, the National Alliance and the Progressive Political Alliance that took part in creating the People's Victory 21 opted out, emphasizing the importance of alliance with existing opposition parties instead of establishing an independent party. However, some members from the regional alliances such as the Ulsan Alliance and the East Gyeonggi Alliance, objected to the National Alliance's official decision, and individually participated in the formation of the Democratic Labor Party.

(b) On January 30, 2000, the Democratic Labor Party was founded, with the election of Kwon ○-Gil as the first Party Representative, and Cheon ○-Se as the Secretary General. In its

inaugural declarations made at the inaugural ceremony, the Democratic Labor Party proclaimed that its objective was to build "a world in which human values are realized and the people can have hope for the future, through politics by the people and a democratic economic system," and that it would advance toward a "practical democracy beyond nominal democracy, with engagement and autonomy," and strive to build an "equal society where laborers and the people are the main agent and the wealth of society is not dominated by a small group," and an "autonomous and democratic unified homeland."

The Chair of the Platform Committee, Ahn ○-Wook, and the other members of the Committee, prepared the draft platform after discussions with experts in their respective field, and the draft platform was officially adopted as the founding platform of the party through voting at a convention.

The preamble to the founding platform of the Democratic Labor Party states that it will "establish an autonomous democratic government of laborers and the people," "overcome ordeals of capitalism and build a democratic socio-economic system oriented toward laborers and the people," and "overcome the fallacy of state socialism and limitations of social democracy and achieve the succession to, and further development of the socialistic ideals and principles that have been handed down from generation to generation in the history of mankind, to realize a new community of liberation, by embracing the long-accumulated wisdom of mankind and achievement of various progressive social movements." It also proclaimed that it would "open its door to all forces that agree with the spirit" of the Democratic Labor Party and would "advance along the path toward the grand progressive alliance" and "toward democracy, equality and liberation."

(c) The Democratic Labor Party failed to gain any seat and only won 1.18 percent of votes for the party at the 16th General Election on

April 13, 2000. As a result, under the former Political Parties Act requiring de-registration of a political party winning less than 2 percent of votes in a General Election, it was de-registered, and then was re-registered as a political party on May 25, 2000.

(3) Growth of the Democratic Labor Party

(a) In September 2001, the National Alliance, which had participated in creating the People's Victory 21, held a "National Democratic Front Workers' Advancement Convention" at the ○○ Training Center in Chungcheongbuk-do, and adopted a special resolution (a three-year plan and a ten-year prospect) on the "construction of an extensive national democratic front and a national democratic party in three years and the establishment of an autonomous democratic government and the construction of a federal unified nation in ten years," also referred to as "The Mt. *Gunja* Promise," or "September *Theses* ("The September Policy')." This resolution was the National Alliance's declaration to participate in the established politics and to build or join a popular political party. Subsequently, the members of a number of NL-line organizations under the National Alliance, including the Incheon Alliance, the National Federation of Farmers and the Federation of University Students Councils, began to join the Democratic Labor Party as party members. This resulted in a significant increase in membership of the Democratic Labor Party, and stronger regional bases and structures throughout the country.

(b) Pursuant to the amendment to the Act on the Election of Public Officials and the Prevention of Election Malpractices, Act No. 6663, on March 7, 2002, which adopted a two-vote system, voters could cast their votes directly to the party that they supported. In the 17th General Election in 2004, the Democratic Labor Party won 13 percent of votes for the political parties, and sent 10 members to the National Assembly, including two members elected from local constituencies.

After the Democratic Labor Party succeeded in entering the legislature, the National Assembly members from the Party continued efforts to realize 'democracy by laborers and the people' under the platform, including urging the withdrawal of privileges given to National Assembly members, such as no immunity from liability and no free use of trains for purposes other than authorized purposes; proposing bills for the amendment of the Public Service Ethics Act to institutionally track public officials' assets; and urging judicial reform to bar special privileges for former judges and prosecutors after retirement. Also, it promoted policies for the 'establishment of a democratic economic system' under its platform by, *inter alia*, proposing a bill for the 'Act on the Procedures for Trade Agreements' to enhance transparency in the process of entering into international trade agreements, bills to stimulate financial institutions for low-income earners and local financial institutions, and bills regulating high interest rates charged by money lenders. In addition, the Democratic Labor Party proposed schemes to promote 'self-realization through labor,' under its platform, including reduced work hours and guarantee of minimum wages and protection of non-permanent workers, a bill for the amendment of the Prevention of Contagious Diseases Act requiring the State and local governments to bear expenses of vaccination, and schemes to guarantee 'health and medical services as a social right' under its platform through phased free medical services. These efforts by the Democratic Labor Party gained significant public support, and in fact an opinion poll at the time once showed an over 20 percent approval rating of the Democratic Labor Party. The party also saw a significant increase in the number of its members every year, reaching 70,000 in around 2005 (based on the National Election Commission's report on activities and accounting standards of political parties).

(c) Debates on Aims under the Platform

1) The Democratic Labor Party was formed through a combination of

a number of political and social movement organizations. They could be divided into the Equality Faction and the Autonomy Faction, based on factors such as their operational history, and each of them could be subdivided into several opinion groups or smaller political factions. Despite such differences in political lines among these factions, the original party platform was established through mutual compromise and coordination for the purpose of creating a progressive party. Yet, as discussed above, with the increase in party membership and successful election outcomes, the party's aims under the platform began to be openly debated. The debates over an alternative society in 2002 and socialistic values in 2003 are two such examples.

2) The debate on the alternative society took place through the official journal of the Democratic Labor Party, preceding the first Presidential Election since the party's founding in 2002. The August 2002 issue of the party's official journal, *Theory and Practice*, published a number of featured articles about 'what are the alternative societies presented by the Democratic Labor Party,' introducing various views of party members on the aims and the system pursued under the platform of the Democratic Labor Party. Ranging from an article entitled "Let's advocate social democracy openly," to those urging for the pursuit of "democratic socialism based on parliamentarism and the multi-party system," "socialism based on full democracy owned by the people," and "genuine social democracy," it presented diverse views on a broad spectrum of ideological aims within socialism.

While the views on social democracy, democratic socialism or true socialism were presented mostly by those classified as the Equality Faction within the party, 'socialism based on full democracy owned by the people,' was proposed by the Autonomy Faction, and in particular, by Lee ○-Dae who was considered to have a disposition of the ○○ Alliance, a regional organization of the National Alliance.

3) The debate on socialistic values was triggered in connection with discussions on the direction of the development of the party in March 2003 within the Special Committee for Development of the Party established for the formulation of strategies for the development and reform of the party. When the Special Committee for Development of the Party proposed the 'clarification of the character of the party as a party pursuing socialistic alternatives' as the direction for the party development during the five year-term of the Roh Moo-Hyun Administration, opinions sharply divided between those for or against the proposal. While the majority of party members from the Equality Faction supported the Committee's proposal, some members from the Equality Faction and the majority of the Autonomy Faction opposed it, arguing that, 'Socialism is not an alternative for the Democratic Labor Party,' or that 'The line we need now is progressive democracy.' As a result, the 4th Central Committee meeting on October 23, 2003 decided not to present the 'Direction of the Development of the Democratic Labor Party,' which included the intensification of socialistic nature (the First *Theses* of Socialism), as an agenda item for the Special Party Convention, yet, on the day of the Special Party Convention on November 1, 2003, about 180 representatives raised objections, and 'deliberation on and approval for the report of the Special Committee for Development of the Party' was submitted as an agenda item.

In the course of discussions on the agenda item, many attendees presented their pros and cons as well as proposals for amendments on the 'enhancement of efforts for the succession to, and development of, socialistic ideals and principles.' In particular, Lee ○-Sam opposed the committee's proposal, saying, "The term 'socialism' is not familiar to the people. I think our aim is a progressive ideology. The Democratic Labor Party has a wide ideological spectrum," and Kim ○-Hyun also opposed the proposal, arguing, "The portion of the proposal mentioning socialism will arouse consumptive debates. The social model that the party should pursue, the nature of Korean society, and the tasks of reform, have not

been clearly specified. I don't think our party's ideology is socialism. The proposal is not helpful for elections in reality. I oppose the original proposal, and it would be better to deliberate on it in the Strategy Committee for the long-term development of the party after the General Election." In the end, the proposal barely passed by 211 votes out of 416 votes cast by members present at the meeting, but debates on the alternative society under the platform continued.

(4) Escalation of Conflicts Over the Democratic Labor Party Line and Splitting of the Party

(a) Election for Party Officials

1) The Democratic Labor Party underwent restructuring in 2004 after it succeeded in entering the legislature, and the party's active dues-paying members voted to install the First Term Supreme Council. Seven Supreme Council members were elected by a seven-vote system (four votes for the list of women candidates and three votes for the list of general candidates), and the Supreme Council members recommended by laborers and farmers were respectively elected by a call for ayes and nays, while the so-called three key party figures, the party leader, the Chair of the Policy Committee, and the Secretary General, were to be elected by a separate vote. In an election held in accordance with the party's regulation that prohibited a party official to hold public office concurrently as a National Assembly member, and vice versa, Kim ○-Kyeong was elected as Party Representative, Ju ○-Hwan as Chair of the Policy Committee, Kim ○-Hyun as Secretary General, and Kim ○-Hee, Kim ○-Cheol, Park ○-Suk, Yu ○-Hee, Lee ○-Hee, Lee ○-Mi, Cheon ○-Se, Choi ○-Yeop and Lee ○-Sik (labor section), and Ha ○-Ho (farmer section) as Supreme Council members.

As a result of the election, a number of members from the Autonomy Faction who were former members of the National Alliance, or those

considered friendly to the Autonomy Faction, entered the Supreme Council, triggering criticisms over election rules and collusion among factions to solicit votes. Eventually in 2005, the 5th Central Committee of the Democratic Labor Party changed the seven-vote system for the election of Supreme Council members to a two-vote system (one vote for the list of women candidates and one vote for the list of general candidates).

2) In the election held in 2006 for party officials, Mun ○-Hyun was elected as Party Representative, Kim ○-Dong as Secretary General, Lee ○-Dae as Chair of the Policy Committee, and Kim ○-Jin, Park ○-Suk, Sim ○-Ok, Hong ○-Ha, Kim ○-Jin, Lee ○-Sam, Kim ○-Su, Kang ○-Ki (farmer section), and Kwon ○-Gil (representative of assembly members) as Supreme Council members, respectively.

(b) Formulation of Strategies for Seizing Power

1) The Democratic Labor Party decided to establish the Strategy Committee for the Seizure of Power in July 2004 as an organ directly under the Central Committee by a resolution adopted at the Special Party Convention in November 2003, but the Central Committee approval to appoint Kim ○-Gyeong, then Party Representative, as Chair of the Committee was not confirmed until March 2005 due to conflicts between factions over the appointment. Activities of the Strategy Committee for the Seizure of Power for the first term ended without any specific outcome, as all Supreme Council members of the Democratic Labor Party, including Chair Kim ○-Gyeong, resigned from office as a result of the Ulsan ○○-gu constituency re-election defeat on October 30, 2005, and in August 2006, the Strategy Committee for the Seizure of Power, chaired by Choi ○-Yeop, was launched for the second term. The Democratic Labor Party studied the reality and problems of Korean society through the Strategy Committee for the Seizure of Power for the second term and planned the timing, process, methods, etc., for seizing

power in earnest until the party split in 2008.

2) Around the time the Strategy Committee for the Seizure of Power was launched for the second term, the Democratic Labor Party held a "Forum on a Permanent Solidarity Mechanism" in relation to internal debates on the creation of and the participation in a permanent solidarity mechanism.

During his presentation of an article entitled, "On Building a Permanent Solidarity Mechanism of Progressive Camps," Jeong ○-Yeon, Policy Committee Chair of the ○○ Solidarity, argued that it was necessary to build a permanent solidarity mechanism "in order to realize the full solidarity of progressive camps, develop the people's solidarity front into a true joint front for social reform, and develop it to a solidarity of substratum beyond a solidarity mechanism of upper stratum." With regard to the nature of the permanent solidarity mechanism, Jeong ○-Yeon defined it as "the people's revolutionary solidary front opposing anti-national, anti-popular ruling groups, including the modern imperialism led by the United States and the current government (Roh Moo-Hyun Administration at that time)," and urged the "promotion of overall solidarity of all progressive movement camps, including political parties, organizations, and individuals that agree to participate in the advancement of Korean society, led by the people at the substratum, such as laborers, farmers, the poor, youths, students and joined by progressive intellectuals, priests, artists, citizens, women, etc. Furthermore, Jeong ○-Yeon argued that a progressive party should take the initiative to build a solidarity mechanism in order to improve its basic political capabilities for seizing power. Panelist, Kim ○-Wook, Vice President of ○○ Research Institute, agreed with the presentation and urged the Democratic Labor Party to lead the building of the permanent solidarity mechanism. By contrast, panelist Kim ○-Su, Chair of the official journal of ○○ Alliance, expressed an opposing opinion on the ground that the movements by a body of fronts would

undermine political independence of political parties or the labor class, given the current reality where the unified front and the people's anti-fascist front, which were the root of the so-called movements by a body of fronts, no longer hold large meanings for them, and Kim ○-Young, a member of the "Da-○○" Steering Committee, emphasized the efficiency of a case-by-case solidarity mechanism and argued that it would be necessary to guarantee the diversity of organizations, and that the permanent solidarity mechanism would weaken struggles of the labor class and turn the Democratic Labor Party to the right side. On the other hand, the collection of proceedings from the forum included an article written by Lee ○-Dae, Chair of the Policy Committee, where he observed that the issue of whether to build a permanent solidarity mechanism should be approached with such questions as 'whether it will be helpful to the party's seizure of power,' and 'whether it conforms to the aim demanded by the people who are represented by the party,' and that the party should take the initiative in building a permanent solidarity mechanism.

The opinions presented at the forum plainly revealed the difference in the line between the Autonomous Faction and the Equality Faction within the Democratic Labor Party at that time. While the Autonomy Faction asserted the building of a permanent solidarity mechanism that would succeed to the National Alliance and the People's Solidarity, taking an active position for a loose (lower-level) alliance of classes and strata, the Equality Faction generally opposed the building of a permanent solidarity mechanism on the ground that it would be contrary to the centrality of the working class and is compromising. Eventually, the Democratic Labor Party resolved to participate in the Preparatory Committee for the Creation of a Permanent Solidarity Mechanism for progressive camps at the Sixth Meeting of the Central Committee in October 2006 by concurrent votes of 137 out of 224 persons present at the meeting, and also resolved to join the Korea Alliance for Progressive Movement at the Fourth Meeting of the Central Committee in August

2007 by concurrent votes of 146 out of 229 persons present at the meeting. Many organizations, including the KCTU, the Democratic Labor Party, the National Federation of Farmers, the National Alliance of the Poor and the Federation of University Students Councils participated in the Preparatory Committee in the course of launching the Korea Alliance for Progressive Movement, but some of those organizations, such as the KCTU, decided to remain as observers without officially joining the alliance.

3) The Democratic Labor Party's Strategy Committee for the Seizure of Power held a forum on "The Nature of Korean Society and Revolutionary Strategies" on October 23, 2007, which was attended by Jeong ○-Hee, Kim ○-Sik, Kim ○-Min, Kim ○-Cheol, Min ○-Wu, Park ○-Soon, and Jeong ○-In.

As a member of a task force of the Strategy Committee for the Seizure of Power, Kim ○-Min made a presentation about "The Nature of Korean Society and Revolutionary Strategies," and with respect to the Societal Formation Debates of the 1980s, argued that "both the colonial semi-capitalism and the new colonial state monopoly capitalism recognize overcoming subordination (anti-imperialism and anti-American) and overcoming capitalism as simultaneous tasks but differ from each other in terms of their priority," in that "the colonial semi-capitalism aims at socialistic reform through unification, while the new colonial state monopoly capitalism aims at two-phase socialistic reform by overthrowing the fascist regime that acts as a proxy for monopolistic capital," and criticized that "the past Societal Formation Debates attempted to fit the process of development of Korean society into existing theories without understanding the process in detail," and argued that Korean society at present should be deemed "a capitalistic, divided state." Kim ○-Min went on to propose a revolutionary strategy for the people's democracy as a revolutionary strategy for Korean society, arguing for socialism as the system to pursue. However, with regard to

the current situation of the Democratic Labor Party, Kim ○-Min observed that, "The Democratic Labor Party is not a socialistic party of the working class. ... It has been developed from a class coalition to a unified front strategy party whose status has been firmly established as the socialistic leader of the working class. It is controversial to clearly state the socialistic line in the platform of the Democratic Labor Party in view of the current situation. ... Of course, to socialists, the line for seizing power is a series of processes toward socialism, but other groups will not consider socialism as a prerequisite." In addition, Kim ○-Min argued that a grand strategy for the minority group and struggles for anti-monopoly and autonomy were required to establish the people's autonomous government based on the unified line of autonomy and equality, focusing on autonomy.

The arguments made in the above-mentioned forum reveal what the Equality Faction and the Autonomy Faction within the party thought about whether such theories should be accepted as an extension of the Societal Formation Debates of the 1980s or whether such theories should be modified, altered, or discarded.

(c) Response to North Korean Nuclear Issues

1) As the North Korean nuclear crisis grew more serious due to North Korea's admission of development of nuclear weapons in 2002, and declaration of withdrawal from the Nuclear Nonproliferation Treaty (NPT) on January 10, 2003, the six-party talks (South Korea, North Korea, the United States, Japan, Russia, and China) were held. At a debate of candidates for Chair of the Policy Committee on May 12, 2004, shortly before the 2004 election for party officials, Lee ○-Dae argued, "As far as the nuclear issue is concerned, I am a radical anti-nuclearist opposing even to the peaceful use of nuclear power; they say it's a North Korean nuclear issue but it is not a North Korean nuclear issue but the issue of a siege or oppression of North Korea by

the United States; the Roh Moo-Hyun Administration takes the position that both parties are wrong, but the Democratic Labor Party should side with the weaker side for international justice and reciprocity."

2) In February 2005, North Korea officially declared its possession of nuclear weapons and indefinite postponement of the six-party talks. With regard to the declaration, the Democratic Labor Party presented a draft resolution to the Central Committee on February 19, 2005, taking a critical position on the North Korean nuclear issue, but it was rejected by concurrent votes of 118 out of 200 members present at the meeting of the Central Committee on February 20, 2005.

3) At the second session of the fourth round of six-party talks on September 19, 2005, a joint statement was issued with regard to an agreement on the denuclearization of the Korean Peninsula, negotiations on a peace regime, the implementation of the agreement in line with the principle of 'commitment for commitment' and 'action for action.' However, there were differences among North Korea, South Korea, and the United States in interpreting the above-mentioned joint agreement. North Korea went ahead with the launch of a missile in July 2006 and a nuclear test on October 3, 2006 on the grounds such as the delay in the implementation of the September 19th Joint Statement, and made an announcement to the effect that it succeeded in an underground nuclear test safely on October 9, 2006.

In response to the announcement, the Democratic Labor Party held an emergency joint meeting on October 9, 2006, attended by the Party Representative, representatives of National Assembly members, Supreme Council members, etc., and expressed "shock and regret at North Korea's nuclear test as a political party supporting the declaration of denuclearization of the Korean Peninsula." On October 15, 2006, shortly thereafter, a modified motion to "express definite opposition to North Korea's nuclear tests," and the original motion of the Supreme Council

to "express definite regret for at North Korea's nuclear tests" were rejected by the Central Committee, and a final modified motion to "express regret at North Korea's nuclear test which resulted from the United States' hostile policy against North Korea and the tension and confrontation between North Korea and the United States" was adopted, with which Lee ○-Dae, Chair of the Policy Committee, and Kim ○-Dong, Secretary General, also concurred. However, the Central Committee members who asserted the adoption of the resolution to "express definite opposition to North Korea's nuclear tests" walked out of the meeting, opposing the above-mentioned modified motion, and consequently no official resolution was adopted on the North Korean nuclear issue due to lack of a quorum. At the extended meeting of officials on October 20, 2006, an announcement was made, after a fierce debate, to the effect that, "North Korea should not conduct additional nuclear tests in accordance with the principle of denuclearization; we will conduct intensive struggles for antiwar and peace and against imperialism; and the Democratic Labor Party expresses definite opposition to North Korea's nuclear tests."

Meanwhile, Lee ○-Dae, then Chair of the Policy Committee, commented on North Korea's nuclear tests in a media interview that "In principle, the Democratic Labor Party opposes nuclear weapons but recognizes that nuclear weapons have the aspect of self-defense in the situation of confrontation," but when his comments sparked a controversy at the above-mentioned extended meeting, Lee ○-Dae apologized, for characterizing his personal opinion as that of the party's official opinion.

Moreover, the Democratic Labor Party held a "Rally for Denuclearization of the Korean Peninsula, Anti-war, and Peace" in front of the main building of the National Assembly, attended by Kwon ○-Gil, Sim ○-Jung, Dan ○-Ho, Choi ○-Young, Lee ○-Soon, and Cheon ○-Se, National Assembly members, Kim ○-Dong, Secretary General, and Lee

○-Dae, Chair of the Policy Committee, on October 24, 2006, and recited a statement of "aspiration for peace on the Korean Peninsula."

4) The above-mentioned controversy within the Democratic Labor Party took place when the Autonomy Faction expressed an opinion that North Korea should not be unilaterally criticized, since the essence of the North Korean nuclear issue is the military tension between North Korea and the United States, against the Equality Faction's proposal to express strong criticism and regret against North Korea. The Autonomy Faction and the Equality Faction within the Democratic Labor Party shared views on major socio-political issues to a considerably broad extent, but there was a substantial gap between their views on issues related to North Korea.

(5) Splitting of the Democratic Labor Party

(a) In 2007, the deadlock of inter-Korean relations appeared to be broken by the February 13th Agreement and the October 3rd Agreement made through six-party talks and the October 4th Declaration made through the South-North Summit (Declaration on the Advancement of South-North Korean Relations, Peace and Prosperity). However, the Democratic Labor Party's response to North Korea continually provoked controversies as the *Ilshimhoe* case became publicized, where Central Committee member Lee ○-Hun and Deputy Secretary General Choi ○-Young were recruited by Jang ○○ (Jang ○-Ho) and Son ○-Mok for spying operations, and Choi ○-Young and Lee ○-Hun were convicted by a first level trial court in April 2007.

The court found Jang ○-Ho, who led espionage operations, and those he recruited, Son ○-Mok, Lee ○-Gang, and Lee ○-Hun, and Choi ○-Young recruited by Son ○-Mok guilty of espionage, but acquitted them of the charges of formation of or joining an enemy-benefitting organization. The court recognized the enemy-benefitting nature of

Ilsimhoe as a kind of social assembly led by Jang ○-Ho, but rejected the argument about the nature of it as an organization on the ground that it had not reached the level of an organized assembly with a certain hierarchy and a system for allocation, etc., so as to maintain the internal order of the organization and lead the organization, considering that the members of *Ilsimhoe* were only four persons, and Son ○-Mok, Lee ○-Hun and Lee ○-Gang only had individual contact with Jang ○-Ho and did not know the presence and activities of others, Choi ○-Young had contact only with Son ○-Mok and did not know the presence of Jang ○-Ho, and each member had conducted activities individually, and did not have any separate platform or regulations.

Meanwhile, as the primary for the 17th Presidential Election proceeded in the Democratic Labor Party in December 2007, and trials of the *Ilsimhoe* case were pending, feuds within the party were temporarily patched up to prepare for the presidential election.

(b) At the primary for nominating the Democratic Labor Party's candidate for the 17th Presidential Election, Kwon ○-Gil won the nomination with support mainly from the Autonomy Faction, defeating Roh ○-Chan and Sim ○-Jung. Kwon ○-Gil proposed a 'Federal Republic of Korea' as a national vision and urged "overcoming a divided, subordinate, *chaebol*-oriented (or conglomerate) Republic of Korea, and building a new country in which unification, autonomy and equality are realized altogether." Furthermore, Kwon ○-Gil contended that the Federal Republic of Korea "will embrace policies of the North's regional government and the South's regional government under a one-state, two-regime federal system," and claimed that 'progressive democracy' should be the ideological foundation of the Federal Republic of Korea. According to Kwon ○-Gil, progressive democracy is democracy oriented toward the working people, such as laborers, farmers, and ordinary citizens, where the principles of 'autonomy and equality' pursued under the platform of the Democratic Labor Party are

realized throughout the society, with objectives to eradicate oppressive organizations and practices throughout the society, perfectly guarantee the participation of the working people from every political, economic, social, and cultural sector and their exercise of sovereignty, and accomplish local autonomy and devolution with the people's participation.

(c) Kwon ○-Gil won approximately 710,000 votes (3.1 percent) in the 17th Presidential Election in 2007, significantly less than the support that the Democratic Labor Party itself won as a political party in the General Election in 2004, and the party viewed this as a defeat. Moreover, as the party members involved in the *Ilshimhoe* case were finally convicted shortly after the election (Supreme Court, Case No. 2007 Do 7257, Dec. 13, 2007), the Equality Faction in the party ascribed the defeat in the election to the failure in responding to issues related to North Korea, or more radically to *jongbuk* groups, and proposed the splitting of the party or demanded party reforms.

Amid controversy, the Democratic Labor Party formed an Emergency Response Committee chaired by Sim ○-Jung, and delegated the authority to appoint members of the committee to the Chair. The Emergency Committee was authorized to act on behalf of the Supreme Council until a new leadership was elected, and was also authorized to drastically broaden the extent of the strategic nomination of proportional representation candidates for the 18th General Election in 2008 and to formulate guidelines therefor.

At the Special Party Convention held on February 3, 2008, the Emergency Response Committee submitted a 'proposal for evaluation and reform for the re-establishment of the party' for approval. This proposal titled "Review on Internal Problems at Issue" contained the evaluation of and proposals regarding the *Ilshimhoe* case and 'North Korean nuclear issues and self-defense rationale.' More specifically, the

proposal stated that: (i) with respect to the *Ilsimhoe* case, Choi ○-Young and Lee ○-Hun should be expelled from the party, since the conduct of Choi ○-Young and Lee ○-Hun constituted serious breach of duties as party members and was obviously harmful to the party, and the party should urge North Korea to stop intervening in the movements of progressive political parties in the Republic of Korea; and (ii) the Democratic Labor Party should confirm again that it opposed not only nuclear power for self-defense but also peaceful use of nuclear power to clearly demonstrate that it was an anti-war, anti-nuclear, peace-aspiring political party, since its image as a pro-North Korean party has been intensified, because of its rejection of the motion to expressly oppose North Korea's declaration of possessing nuclear weapons and "North Korea's self-defense" rationale mentioned by some members of the party leadership, contrary to the spirit of the party's platform.

In the course of deliberating items seriatim at the Special Party Convention, regarding item (i) mentioned above, proposals were made to refer the accused to the party's Discipline Committee, and to delegate the power to make a decision on whether to expel them to the Discipline Committee, but all were rejected, and a proposal to completely delete the clause defining the conduct of the party members Choi ○-Young and Lee ○-Hun involved in the *Ilsimhoe* case as obviously harmful to the party, was approved by 553 votes (approximately 64 percent), out of 862 persons present at the convention. Then the convention was adjourned due to lack of quorum, and other items in the proposal for reform, including item (ii) mentioned above, were not deliberated.

The day after the Special Party Convention, all members of the Emergency Response Committee, including Chair Sim ○-Jung, resigned from office, and Kim ○-Gyeong, Ju ○-Hwan, Sim ○-Ok, Hong ○-Ha, Kim ○-Su, etc., among the persons who formed the party leadership for the first and second terms, left the party, and the National Assembly members of the Democratic Labor Party, Sim ○-Jung, Roh ○-Chan, Jo

○-Su, and Dan ○-Ho, also left the party. The number of persons who left the Democratic Labor Party after the Special Party Convention up to April 13, 2008 reached 16,904 persons, and the number of members of the Democratic Labor Party was down from about 110,000 persons in January 2008 to about 94,000. Most of the persons who defected from the party at that time were the Equality Faction within the party, party members friendly to the Equality Faction, and non-faction members. Some of those who left the Democratic Labor Party formed a preparatory committee for 'Solidarity for New Progressive Party' on February 21, 2008, and the founding of the New Progressive Party was officially announced in March 2008, resulting in the split of the Democratic Labor Party.

(6) Introduction of Progressive Democracy to the Platform (Development of Demands for the Grand Consolidation of Progressive Camps and Introduction of Progressive Democracy to the Platform)

(a) Development of the Grand Consolidation of Progressive Camps

1) In the 18th General Election held on April 9, 2008, shortly after the Democratic Labor Party was split, the party won only two seats from constituencies and three seats for proportional representatives (5.68 percent of votes for political parties), and the New Progressive Party failed to gain a seat in the National Assembly.

2) The Democratic Labor Party passed an agenda for the 'Reform and Re-establishment of Direction and Tasks,' at the Special Party Convention held on June 22, 2008. The Democratic Labor Party chose the goal of becoming "a party that reforms the methods of activities to receive the people's love" as one of the three principles for the reform or re-establishment of the party, and in response to accusations of being '*jongbokjueui*' (pro-North Korea), stated that these are "groundless, biased, political offensive, and very unfair," while admitting that the

public had formed a "negative image that the party is biased toward the North." Moreover, it pledged that "Going forward, as an independent, autonomous party aspiring to peaceful unification, the party will determine its views on current issues according to its ideology and line without any taboo, respond to such current issues promptly, dispel the negative image, and eradicate hegemonism by conducting a 'campaign for refreshing the atmosphere' from the bottom and preparing 'institutional devices' from the top, as it deeply repents, before party members and citizens, of its outdated, anti-progressive political behavior, which betrayed the party members' expectations and citizens' wishes and severely undermined democracy within the party." More specifically, it proposed the introduction of a system "for holding open primaries and allocating seats by sectors and generations and a lottery system for electing representatives and Central Committee members," in order to overcome hegemonism. In addition, the Democratic Labor Party pledged at the above-mentioned Special Party Convention to promote the grand consolidation of progressive political groups, including the group defected from the party, stating that "In order to meet the demand of laborers and ordinary citizens for the unity of progressive groups and to emerge as a strong, alternative political power that can stand against the Lee Myung-Bak Administration, we should promote the grand unification of progressive political groups."

3) Thereafter, the so-called progressive movement groups and opposition party members continued to seek a united political front to meet the demand for joint response against the Lee Myung-Bak Administration and the giant ruling party at that time. The statement on the state of affairs by public figures from civic society (September 2008), a proposal by Kang ○-Gap, Party Representative of the Democratic Labor Party, to hold an emergency national economic conference (November 2008), and the inauguration of the National Congress for People's Livelihood and Democracy (October 2008) were followed by the formation and activities of various organizations, such as 'Citizens' Action for Democratic

Unification,' 'Citizens' Sovereignty,' and 'Hope and Alternative.' As a result of the realization of the regional solidarity of opposition parties for the 5th municipal election in 2010, the 'Joint Conference of Representatives from Progressive Camps' was formed on January 20, 2011, by the Democratic Labor Party, the New Progressive Party, the Socialist Party, the KCTU, the National Federation of Women Farmers' Associations, Korea League of Women, the Korea Youth Solidarity, the Association of Professors and Researchers for Solidarity of Progressive Political Powers, the Anti-Poverty Solidarity of the Poor, etc.

4) Around that time, North Korea continued to provoke the South to strain inter-Korean relations by conducting its second nuclear test (May 2009), the warship *Cheonan* Incident (March 2010), the bombardment of Yeonpyeong island, etc., and our political circles in South Korea began a full-scale condemnation of North Korea by introducing a bill for the North Korean Human Rights Act, raising questions about human rights in North Korea, and condemning the three-generation power succession as Kim Jong-Un officially rose to power. With regard to these North Korean issues, Lee ○-Hee, then Party Representative of the Democratic Labor Party, stated as follows:

First, with regard to the warship *Cheonan* Incident, Lee ○-Hee stated during a media interview in August 2010, that "If the North did it, we must hold the North accountable, but, the issue should be resolved by way of reconciliation and cooperation, not by confrontation; then there will be dialogues, taking of responsibilities, and an apology in any way; and we just hate war." In March 2011, Lee ○-Hee also commented in an interview after hearing presentations given by two scientists who were invited to a forum held by the party under the theme, 'The Truth of the Warship *Cheonan*, Democracy, and Peace on the Korean Peninsula,' that "We cannot say it has been fully proved; I also proposed forming an organization for public verification, including the press, non-governmental experts, and National Assembly members; and there

are still different conclusions in regard to such scientific issues, and we have already found from such conclusions that assumptions were wrong. The joint investigation corps should not keep on covering up such problems, pretending that those have been already proved. Let's talk about them all openly."

Next, concerning the bombardment of Yeonpyeong island, Lee ○-Hee wrote on his Twitter account on November 24, 2010, that "Soldiers were killed on Yeonpyeong island, and residents trembled with fear in the flames. North Korea should not do this. A war only brings tragedy. The Government must clearly see the consequence of aggravating inter-Korean relations. The only thing that results from confrontation is a tragedy."

In addition, Party Representative Lee ○-Hee, commented on the North Korean Human Rights Act through press and other media, stating that "Its intention is to use human rights as a means of humiliating North Korea in the international community; if there is anything confirmed as truth regarding human rights issues in the North, I am more than willing to comment on, talk about, and criticize the issues; should be cautious because the human rights organizations are talking about extreme cases, in which case it can undermine their reliability, and so I should be cautious; and it is right to talk about the issues any time, as long as they are confirmed true." In response to requests from some media outlets to comment on the three-generation power succession, Lee ○-Hee also said, "Should even a progressive party invoke more conflicts by commenting that North Korea has behaved unreasonably?it is obvious that the inter-Korean relationship will be rapidly worsened, once we begin to talk about the power structure of the North. Even if we think that the stance on the power structure of the North is a different issue, and we criticize the power succession as hereditary succession of a dynasty, or even if we think dialogues should continue as we have done so far, these issues are directly linked to inter-Korean relations perfectly, in one chain.if

I criticize the power succession in the North for the purpose of being recognized as being progressive and then sit together with the successor later for dialogue, I will have to praise the successor as 'a capable person' and revoke the criticism I made in the past. I don't want to put myself in such an awkward situation."

Meanwhile, Park ○-Soon, Vice President of ○○ Research Institute, the policy research institute affiliated to the Democratic Labor Party, gave a speech at a forum held at the institute on October 7, 2010 to the effect that, "Is it a rational approach to absolutize only one logic that a son should not become the successor, and to brand any act not condemning it as '*chinbuk*' or '*jongbuk*' (pro-North Korea or North Korea-following)? Considering that Kim Jong-Il, Chairman of the National Defense Commission was 26, when he played an active role in the purge of the Gapsan faction, and conducted political activities within the party later to perform his role as the second in Command, the emergence of Kim Jong-Un cannot be viewed as too young (28 or 29 years old?) to take that office; according to North Korea's succession theory, a successor should be selected not on the basis of blood but on the basis of character; according to North Korea's succession theory, the only criteria to determine the successor is not blood but character which means whether the person has the qualities and capabilities as the supreme leader, including loyalty to the Leader, political leadership, theoretical capabilities, political judgment, boldness and temperament as a politician, devotion to people and morality as the supreme leader. In light of such principles of succession, we need to carefully discuss whether the succession can be branded hereditary, if a successor emerges on a reasonable ground through a reasonable process in accordance with such theory of succession; and we have to follow the principles of non-intervention in internal affairs and recognition of and respect for the regime with regard to all North Korean issues in accordance with the June 15th Declaration and the October 4th Declaration. Based on the principle of non-intervention in internal affairs, the succession issue in

North Korea is also strictly a core internal matter. The attempt to intervene in or interfere with such an internal affair is contrary to the spirit of the June 15th Declaration and the October 4th Declaration, will adversely affect reconciliation, cooperation, and peaceful unification of the South and the North, and will bring about negative consequences for the peace of the Korean Peninsula by inciting confrontation between the South and the North."

5) Such stance of the Democratic Labor Party on North Korean issues as reviewed above faced objection from the New Progressive Party and the Socialist Party in the process of discussions for the grand consolidation of progressive camps. At a "Joint Meeting of the Representatives of the Progressive Camps," the New Progressive Party or the Socialist Party argued, concerning the three-generation power succession in North Korea, that "we should make critical expressions acceptable to citizens" or "we have to discuss it because the opposition to the three-generation power succession in North Korea was a matter that should be resolved at the representatives' convention of the party." In response to such arguments, the Democratic Labor Party argued that, "We need to abandon such a dichotomous way of thinking that if you don't criticize North Korea, you are pro-North. Even if it is difficult to accept the succession of power in light of the public sentiment, we should recognize the structure of power of North Korea according to the June 15th Declaration, regardless of whether or not the structure of power in North Korea is appropriate." Consequently, the agreement on the merger was delayed.

In the end, the New Progressive Party and the Democratic Labor Party adjusted their stances by agreeing to insert a clause stating, "We respect the opinion that the New Progressive Party must recognize the regime of the North in accordance with the spirit of the June 15th Declaration and that it is difficult for citizens' sentiments to understand the succession of power in the North and thus the New Progressive Party must express its

critical stance on the issue," and the final agreement (so-called the May 31st Agreement) was passed at the joint meeting on June 1, 2011. However, the Socialist Party refused to sign the final agreement and opted out from the discussion on the merger, arguing, "The agreement actually approves the succession of power in North Korea, which is unacceptable to the Socialist Party."

(b) Introduction of 'Progressive Democracy' to the Platform

1) The Democratic Labor Party formed the Strategy Committee for the Seizure of Power for the 3rd term (chaired by Choi ○-Yeop) in August 2008 in order to resume activities of the Strategy Committee for the Seizure of Power, which were interrupted by the splitting of the party, and the Committee prepared a "Report by the Strategy Committee for the Seizure of Power" based on the outcomes of the research and review it had done until that time and submitted the report to the 1st Party Policy Convention in June 2009 that was approved at the Convention. The Democratic Labor Party declared at the 1st Party Policy Convention that it aimed at 'progressive democracy,' stating that it aimed to "guarantee substantive, practical democracy, beyond procedural, nominal democracy, accomplish economic democracy, beyond political democracy, and realize direct democracy, beyond indirect democracy,' and formed a committee for the amendment of the platform in order to amend its platform.

The Democratic Labor Party determined ten tasks for the strategy for seizing power in the Report of the Strategy Committee for the Seizure of Power as follows:

- 1. Korean society appears to be a medium-developed capitalist country in appearance but is in essence a subordinate, pariah capitalist society of a divided nation.*
- 2. The Democratic Labor Party aims for an 'autonomous, democratic*

government of the people.'

3. *The Democratic Labor Party aims at a unified state, 'an autonomous state unified in a federal system' under which the regimes of the South and the North are mutually respected.*
4. *The Democratic Labor Party shall seize power by an appropriate combination of people's 'right of resistance' and 'election struggles.'*
5. *The Democratic Labor Party advocates the 'presidential system,' which has been proven to be appropriate for exceptional conditions of Korean society and superior in light of general principles of democracy.*
6. *The ideological banner of the Democratic Labor Party is 'autonomy' and 'equality' combined with 'ecosystem.'*
7. *The immediate goals of the Democratic Labor Party for seizing power are to: ① Secure 100,000 party members; ② win a public approval rating of 20 percent by 2010; ③ form an axis for seizing power in local governments by realizing progressive local autonomy; and ④ form a parliamentary negotiation body in 2012.*
8. *The Democratic Labor Party shall take the initiative in continuously strengthening the alliance of progressive forces, composed of anti-neoliberalism forces, anti-American nationalist forces, and democracy-peace -unification forces.*
9. *The Democratic Labor Party can seize power in '2017,' when united with the people as one.*
10. *The Democratic Labor Party will maintain the 'progressive development line' and will realize a 'great revolution of social welfare.'*

Among the ten tasks determined by the Democratic Labor Party for the strategy for seizing power, 'an autonomous democratic government of the people' had already been included in the party's platform as well but was specified further in detail by the Report of the Strategy

Committee for the Seizure of Power, which stated that "the entity that seizes power in the autonomous democratic government will be the people who pursue liberation and unification, and the autonomous democratic government will not be a temporary class coalition government but will be the government of the alliance of progressive *forces* led by progressive people's parties, while the political line of the autonomous democratic government will be 'progressive democracy.'" The above report explains 'progressive democracy' as "solidaristic, equal democracy that aims to change the capitalistic regime from the perspective of human liberation, while accommodating urgent demand for the people's right of survival, and emphasizes unification as a strategic task, and embraces diverse democratic values." Moreover, it explained that 'progressive democracy,' first, sees as its greatest political task the realization of South Korea's autonomy through peace and reunification of the Korean Peninsula, second, aims for a people's government of the unification line based on the people's extensive political struggles, third, aims for diversification of ownership of means of production, by adopting a pluralistic democratic economic system where private ownership and collective ownership coexist, and fourth, aims to abolish anti-democratic and unjust statutes that oppress human rights.

2) The Platform Amendment Committee, formed according to a resolution adopted at the Party Policy Convention, prepared a draft amendment of the platform through a series of meetings, and submitted the draft to the Central Committee in January, 2011, which was reviewed by the Draft Amendment Review Committee, comprised of around 150 to 200 party members, and the draft amendment of the platform introducing progressive democracy was finally approved in April 2011 after undergoing internal debates.

The Democratic Labor Party passed the amendment of the platform introducing 'progressive democracy' at the second Party Policy Convention held on June 18 and 19, 2011. The main issue was whether

to delete the phrase 'succession to, and development of socialistic ideals and principles.'

During a discussion held on the first day of the Party Convention, Park ○-Soon, the task force head of the Platform Amendment Committee, argued, "The point at issue is not whether to delete the phrase 'principles and ideas of socialism' but whether or not to advocate a socialistic system as an economic system. At this juncture, when the Democratic Labor Party is reaching to become the ruling party, we have to adjust ourselves to citizens' sentiments. If we are serious about doing socialism, we should put socialism forward; but we are not. It is not honest to insist on socialism superficially without actually formulating socialistic policies." By contrast, Jeong ○-In, Yu ○-Mu, and Kim ○-Sik criticized the deletion of the phrase 'succession to, and development of, socialistic ideals and principles' and opposed the amendment. Lee ○-Dae opposed the amendment on the ground that the timing for the platform amendment was improper, and even 'a mass meeting of party members opposing the platform amendment' was held with more than 100 party members, after closing of the discussion.

During the introductory and the Q & A sessions on the agenda on the second day of the Party Convention, arguments were again made opposing the deletion of the phrase 'succession to, and development of, socialistic ideals and principles.' Choi ○-Yeop, Chair of the Platform Amendment Committee, explained the intent of the amendment of the platform, saying, "There was no one who did not know what progressive democracy means in Korea, both of the South and North, until the outbreak of the Korean War after liberation from Japanese rule in 1945; what is important here is that if socialistic democratic groups win hegemony in the course of advancing toward progressive democracy we advance towards socialistic democracy, and if socialism gains the support then we advance towards socialism. But in fact, socialistic ideals and principles have not been discussed sufficiently. Progressive democracy

does not pursue any particular ideology. The phrase 'ideals and principles of socialism' is omitted because they are what we need to do in the remote future, so I hope there is no misunderstanding. Everything is in it, except for the word communism. We tried to be prudent about openly advocating socialism based on the theory of progressive democracy, after closely analyzing possible reactionaries' attacks against our collaboration with the self-employed middle class as a party of united classes and the people's party oriented toward workers." The amendment of the platform was adopted by concurrent votes of 421 out of 600 persons present at the convention.

3) The amendment of the Democratic Labor Party's platform in June 2011 was an overall compression of the former platform. The part providing that the party should "establish an autonomous, democratic government of laborers and the people, overcome the ordeal of capitalism, build a democratic, socio-economic system oriented toward laborers and the people, build an autonomous state of a unified nation of reconciliation and peace, abolish all state organs, statutes, systems that suppress the people, and advance toward the solidarity of progressive groups to open the door to all groups who agree on our spirit and get together with them all" in the founding platform, remained mostly unchanged only with some modifications. The amended platform of June 2011 provides that the party will "establish an autonomous democratic government, overcome the ordeal of capitalism, build a progressive democratic system which the people are the real owner, abolish anti-democratic systems and various evil statutes, dissolve oppressing organs, promote the fundamental reform of the state and society, build a democratic economic system in which the autonomous economy for overcoming the ordeal of capitalism and the people's voluntary participation are guaranteed, pursue autonomous peaceful unification, and advance toward the solidarity of progressive groups to open the door to all groups who agree on our spirit and get together with them all."

The biggest change made by the amendment of the platform of June 2011 was to delete the phrase "overcome the fallacy of state socialism and limitations of social democracy and succeed to and develop socialistic ideals and principles that have been handed down ceaselessly from generation to generation in the history of mankind, to realize a new community of liberation, by embracing the long-accumulated wisdom of mankind and outcomes of various progressive social movements" from the founding platform and to insert the phrase 'build a progressive democratic system' instead.

With respect to a unification plan, the platform amended in February 2005 provided, "Unification should be accomplished at least in the form of a confederation or a federation. We pursue unification by mutual agreement and of reciprocity, not unification by absorbing the North. The ultimate, unified regime should be a regime under which the people's rights and interests, as well democratic participation, are guaranteed, while overcoming the pariah capitalism of South Korea and rigid socialism of North Korea." This was changed to "pursue unification in a federal system, in which we can coexist and prosper together through reconciliation and unity, not by war or absorptive unification."

4) The Democratic Labor Party concentrated efforts to promote, propagate and conduct education on 'progressive democracy' under the initiative of Choi ○-Yeop, Park ○-Soon, etc., who played key roles in the amendment of the platform. In June 2011, Choi ○-Yeop and Park ○-Soon published a book titled "Progressive Democracy in the 21st Century," through the Democratic Labor Party affiliated ○○ Research Institute, in which she explains the perceived reality of Korean society, the meaning and substance of progressive democracy, political, economic, and social policies in which progressive democracy is embodied, as background for the introduction of 'progressive democracy,' and the book was distributed, free of charge, to attendees at

the party's Policy Convention held to amend the platform.

This book can be summarized as follows, and further detail will be examined later in the review section.

- (i) *In the economic aspect, the reality of our society is characterized as a subordinate neoliberal system transplanted from outside by force. Subordination of the economy, the chaebol (conglomerate) system, collusive links between politics and business, and bureaucratic finance can be enumerated as ills of the Korean economy. We need national autonomy, the people's seizure of power, the creation of a model for autonomous development, and equal cooperative relationships in the international economy, in order to deal with such ills.*

- (ii) *In the political aspect, the reality of Korean society remains confined to the limitations of the regime of 1987. The regime of 1987 was "A conciliatory democratic regime gradually promoted under the condition that the hegemony of pro-American conservative groups remained strong; a procedural and nominal democratic regime confined to the framework of liberal democracy; and a system for struggles led by cursory, opportunistic, moderate, democratic reformists, which has the limitation of failing to overthrow the fascist regime.*

- (iii) *Liberal democracy, social democracy, socialism, etc., are insufficient to meet the demand for new democracy. It is necessary to move away from the methodology focused on traditional relationships of classes and adopt a people-oriented methodology, and it is also necessary to converge various demands and values of citizens' social movements. Furthermore, joint activities and struggles for common goals, in other words, solidarity, is required. In such solidarity, the working class*

should remain as the leading class, but it does not mean that other classes should follow the working class but the working class, realizing its historical missions, should devote and sacrifice itself for such missions, which calls for horizontal solidarity.

- (iv) The ideological basis of progressive democracy in the 21st century is the people's sovereignty. Under citizens' sovereignty, most ordinary citizens are unable to enjoy sovereignty, and actual powers are possessed by the privileged few. Thus we have to overcome such limits. Four basic elements of people's sovereignty are the realization of the right of political autonomy, the establishment of a structure of political equality, the realization of direct democracy, and the establishment of devices for people's control of bureaucratic organizations.*
- (v) In the political sector, progressive democracy in the 21st century demands revolutionary reform of the pro-American conservative alliance interwoven with the Alliance between the Republic of Korea and the United States, the National Security Act, and the collusive links between politics and business, perfect guarantee of three labor rights, practical guarantee of the freedom of political activities, gradual modification of the structure of separation of powers under the people's sovereignty, reform of election systems, organic combination of representative democracy and direct democracy, etc.*
- (vi) Progressive democracy in the 21st century pursues the strengthening of control over imperialists' monopolistic capital in the economic sector; the amendment of unequal treaties, such as the Free Trade Agreement between the Republic of Korea and the United States, a strategy of growth driven by the increase of domestic demand, the establishment of a unified*

national economic community, the establishment of a pluralistic economic system with a combination of social ownership and private ownership, the economic sector and regional balance, the environment-friendly economic structure, etc.

(vii) Progressive democracy in the 21st century, in order to achieve peace and unification, aims to establish a peace regime without the U.S. military forces in Korea, execute an agreement for peace on the Korean Peninsula, and build a unified regime under a federation.

Moreover, the Democratic Labor Party conducted education on 'progressive democracy' for its Supreme Council members of the Central Chapter, National Assembly members, party officials in the National Assembly, and researchers in its research institute, with Choi ○-Yeop and Park ○-Soon participating as lecturers. The Democratic Labor Party also operated a 'School for Instructors in Progressive Democracy' in August 2011 so as to intensify education on 'progressive democracy' throughout the entire party, in which Choi ○-Yeop and Park ○-Soon joined as lecturers. *Collection of Teaching Materials for the School for Instructors in Progressive Democracy (About Progressive Democracy in the 21st Century)*, prepared as teaching materials for lectures by referring to "Progressive Democracy in the 21st Century," was posted on the party's website so that party members could download it directly. In addition, Park ○-Soon published a series of commentaries on the platform regarding progressive democracy on five consecutive issues of the official Democratic Labor Party journal "Progressive Politics" from July to August 2011, although the content of the commentaries were almost the same as those in "Collection of Teaching Materials for the School for Instructors in Progressive Democracy."

(7) Formation and Splitting of the Respondent

(a) Formation of the Respondent

1) The Democratic Labor Party approved the final agreement of the "Joint Meeting of the Representatives of the Progressive Camps" at the Party Convention held on June 18 and 19, 2011. Major provisions of the final agreement are as follows:

1. *We will create a 'new progressive political party to be established through the grand consolidation of progressive politics' by September 2011, to realize the following values and policies, with the aim of realizing aspiration of laborers, farmers, ordinary citizens and civic society, and building a new alternative society of hope, along with victory in the general election and presidential election in 2012.*
- 1-2. *The 'new progressive political party to be established through grand consolidation of progressive politics' will be a progressive party to realize a nuclear-free peace regime, and autonomous and peaceful unification, on the Korean Peninsula and to build a new society that respects human beings and labor, which transcends the limits of capitalism of the South and socialism of the North.*
3. *We expressly declare that while the 'new progressive political party to be established through the grand consolidation of progressive politics' will recognize North Korean authorities as the counterparty for peace, and autonomous and peaceful unification, on the Korean Peninsula, it will maintain an autonomous stance toward both governments of the South and the North, and we hereby agree to maintain the following stance concerning North Korean issues and peace on the Korean*

Peninsula.

3-1. The 'new progressive political party to be established through the grand consolidation of progressive politics' will earnestly work to denuclearize the Korean Peninsula, terminate the Korea-US alliance, achieve phased withdrawal of US military forces from Korea, replace the Armistice Agreement with a peace agreement, pro-actively freeze armament levels, achieve mutual reduction of armaments by the South and the North, establish a multi-party security system in Northeast Asia, in order to overcome military confrontation on the Korean Peninsula caused by the aggravating pressure from the United States and South Korea over North Korea, North Korea's development of nuclear weapons, and bring permanent peace to the Korean Peninsula and Northeast Asia.

3-2. The 'new progressive political party to be established through the grand consolidation of progressive politics' will be a political party that supports policies contributing to peace, and autonomous and peaceful unification, on the Korean Peninsula, and policies promoting progressive values in various fields, including democracy, human rights, and the ecosystem, whether they are the South's or North's, and that criticizes policies escalating tensions on the Korean Peninsula and obstructing autonomous and peaceful unification of the Korean Peninsula. The new progressive party recognizes the North Korean system in accordance with the spirit of the June 15th Joint Declaration and respects the opinion that "the power succession issue in the North is hardly acceptable to the sentiments of ordinary citizens and thus it is necessary to clarify its critical stance."

4. We will make sure that the 'new progressive political party to be established through the grand consolidation of progressive

politics' realizes the democratic operation of the party centering on its members, by routinizing voluntary participation and mutual communication, and eschewing hegemonism in its operation.

2) While the Democratic Labor Party approved the final agreement of the Joint Meeting of the Representatives of the Progressive Camps in its entirety, the New Progressive Party adopted a special resolution at its Special Party Convention on June 26, 2011, provisionally approving the final agreement but deferring final confirmation until the end of August. The New Progressive Party decided to demand a second negotiation to, *inter alia*, "identify different opinions on the agreement, clarify the position on the prospective merger with the National Participation Party (as Ryu ○-Min, leader of the National Participation Party, expressed intent to participate in the grand progressive consolidation on June 7, 2011 after the release of the agreement), and end hegemonism." In the end, the proposed merger was voted down at the New Progressive Party's special convention on September 4, 2011, failing to obtain two-thirds of total votes, the quorum needed for approval.

After the merger effort with the New Progressive Party failed, the Democratic Labor Party attempted merging with the National Participation Party, but the proposed merger was rejected at the Party Convention on September 25, 2011. Accordingly, the National Participation Party cancelled a scheduled party convention.

3) Although the proposed merger with the National Participation Party was voted down, the leadership of the Democratic Labor Party continued discussions for the grand consolidation of progressive camps. However, Roh ○-Chan and Sim ○-Jung left the party in September 2011 and formed the "Alliance for the Creation of a New Progressive Party (New Progressive Alliance)," calling for the creation of a unified progressive party. Jo ○-Su, leader of the New Progressive Party, also left the party on October 6, 2011 and joined the New Progressive Alliance.

Discussions for the grand consolidation of progressive camps resumed in earnest during the campaign for the by-election on October 26, 2011, and the Democratic Labor Party, the National Participation Party, and the New Progressive Alliance declared a merger on November 20, 2011, and resolved to create (by merger) the Unified Progressive Party on December 5 of the same year, and registered it with the National Election Commission on the 13th of that month, officially establishing the Respondent.

4) As a result of working-level negotiations among the Democratic Labor Party, the Participation Party, and the New Progressive Alliance, which took the initiative in the formation of the Respondent, an interim platform based on the agreement of the joint meeting was adopted as the platform of the unified party, and it was agreed to comprehensively describe or reserve the disputed issues.

The interim platform of the Respondent, [1. Realization of a universal welfare society; 8. Tightening of regulation on international, speculative, monopolistic capital, amendment and abolition of unequal international economic agreements, and the strengthening of the domestic-driven economic system; 9. Diversification of the structure of ownership of production means and strengthening of public characteristics of properties; 10. Dissolution of the economic system oriented toward monopolistic *chaebol*; 19. Settlement of problems of non-permanent workers; 21. Full guarantee of three labor rights for all laborers; 26. strengthening of the status of women in political representations; 27. Eradication of gender-related violence and exploitation; 28. Guarantee of human rights of children and juveniles; 33. Abolition of anti-democratic institutions and bad laws, including the National Security Act, and the democratic reform of state authorities exercising government power; 34. Amendment of the Political Parties Act and election-related statutes and realization of direct democracy; 36. Early establishment of a nuclear-free peace regime on the Korean Peninsula and Northeast Asia, withdrawal of

the United States' military forces from Korea, dissolution of the subordinate alliance between the Republic of Korea and the United States, conversion into a multi-party cooperative system for peace in Northeast Asia; 38. Respect for the spirit of the July 4th Joint Statement and the Inter-Korean Framework Agreement, promotion of implementation of the June 15th Joint Declaration and the October 4th Declaration, and the pursuit of autonomous peaceful unification], contained major provisions similar to those in the platform of the Democratic Labor Party, but did not include the pursuit of a 'progressive, democratic society' as was done with the platforms of the Democratic Labor Party or the Respondent.

(b) Unified Progressive Party's Platform Amendment and the Second Split

1) Vote-rigging in Primary for Proportional Representation Candidates and Poll-rigging in Opposition Parties' Joint Candidate Nomination

a) The Respondent held a primary, by on-line and in-person voting, from March 14 to 18, 2012, in order to determine the order of candidacy for proportional representatives for the 19th General Election. The Respondent gave voting rights to persons who joined the party by February 23, 2012, and paid party dues at least once during six months prior to the date of public notice of the primary, with each voter having the right to cast eight votes as follows in person, on-line, or by mail: One vote to select a candidate from one of the lists of general or women candidates or candidates with disabilities; one vote to approve or disapprove the youth candidate (one person: Kim ○-Yeon); five votes to approve or disapprove candidates on the list of open candidates list (five persons); and one vote to approve or disapprove the strategically recommended candidate (Rhyu ○-Min). If a voter chose to vote on-line, the voter accessed the Internet electronic voting system, entered the password sent to the voter's mobile phone, and then chose the

candidates whom the voter supported as proportional representatives. Twenty candidates were given the order of candidacy for proportional representatives according to the results of the primary: an odd number for a female candidate; an even number for a male candidate; No. 7 for a disabled candidate; No. 3 for a youth candidate; No. 4, 5, 6, 14, and 18 for the open candidates list; and No. 12 for the strategically recommended candidate.

The result of the primary showed that the total number of votes was 41,524 votes (including 36,069 votes cast on-line), out of which Lee ○-Ki ranked first in the list of general candidates with 11,188 votes (including 10,136 votes cast on-line), Lee ○-Hee ranked second with 2,390 votes (including 2,088 votes cast on-line), and Roh ○-Rae ranked third with 2,414 votes (including 2,389 votes cast on-line), and Yun ○-Sun ranked first in the list of women candidates with 5,418 votes (including 4,898 votes cast on-line), Oh ○-Man ranked second with 5,259 votes (including 5,188 votes cast on-line), and Na ○-Ja ranked third with 4,481 votes (including 2,955 votes cast on-line), while Cho ○-Suk ranked first in the list of candidates with disabilities with 760 votes (including 702 votes cast on-line). Yun ○-Sun ranked first in the list of women candidates and was given No. 1 on the order list, Lee ○-Ki who ranked first on the list of general candidates was given No. 2, and Kim ○-Yeon who was elected as the representative of youths was given No. 3, while Jeong ○-Hu, Kim ○-Nam, and Park ○-Seok were given No. 4, 5, and 6 respectively after a yes-or-no vote for the approval of candidates from the open candidates list.

b) In the 19th General Election on April 11, 2012, the Respondent turned out seven winners from constituencies (Lee ○-Gu, Roh ○-Chan, Sim ○-Jung, Kim ○-Hee, Oh ○-Yun, Kang ○-Won, and Kim ○-Dong) and six proportional representatives (Yun ○-Sun, Lee ○-Ki, Kim ○-Yeon, Jeong ○-Hu, Kim ○-Nam, and Park ○-Seok). The candidate who ranked first on the list of candidates with disabilities,

candidates who ranked second or below on the list of women candidates, and candidates on the open candidates list, who were given No. 7 or below, failed to win a seat.

Meanwhile, the Respondent's co-Representative Lee ○-Hee was registered as a candidate for the ○○ *Eul* constituency, but resigned after taking responsibility for the poll rigging case, and the replacement candidate Lee ○-Gyu was elected. The poll rigging case in the opposition parties' joint candidates nomination took place when some members of the Respondent supporting Lee ○-Hee interfered with opinion polls being conducted for the joint candidates nomination of the Democratic United Party and the Respondent from March 17 to 18, 2012, by figuring out the progress of opinion polls being conducted by a polling organization and disseminating that information to party members and supporters, and causing party members and supporters to give wrong answers about their ages, and causing non-resident or unqualified party members or supporters to answer the polls by subscribing for multiple telephone lines; Lee ○-Hee was cleared of suspicion and was not prosecuted.

c) After the General Election, some party members complained of irregularities in determining the order of candidacy for proportional representatives due to inadequate supervision of the voting process and an improper voting system. Accordingly, the Respondent held a joint meeting of co-representatives on April 12, 2012, and formed a "fact-finding committee on the primary for proportional representation candidates" in order to investigate any irregularities in the primary for determining the order of candidacy for proportional representatives, and on May 2, 2012, the (first) fact-finding committee (chaired by Cho ○-Ho) declared the primary for nominating the Respondent's candidates for proportional representatives as a "totally improper and fraudulent election."

On May 3, 2012, the day after the announcement of the first inquiry results, party members who had supported Lee ○-Ki in the primary for proportional representation candidates, and who had held a "Lee ○-Ki Support Resolution Rally (March 8, 2012)," and party members who refused to accept the above-mentioned fact finding inquiry results, held an "April 11th General Election Victory Report and Resolution to Defend Party to the Death." Lee ○-Ki, a National Assembly member, as well as National Assembly members Kim ○-Hee and Kim ○-Yeon attended the event.

The Respondent held a meeting of the Nationwide Steering Committee on May 4, 2012 and resolved to present a proposal for revolutionary measures as agenda items for the May 12th meeting of the Central Committee, which would include the fact-finding committee's investigations report, the general resignation of all Party co-Representatives, the resignation of all candidates elected as proportional representatives and other candidates, the formation of an Emergency Reform Committee, the acknowledgment of some defects in the fact-finding report, and the commitment to conduct investigation properly in the future.

d) The allegations of vote-rigging in the primary for proportional representation candidates examined above were confirmed in part, when some members of the Respondent faced prosecution and later convicted for interference with the operation or freedom of the primary (interference with business) by casting votes on-line through identity fraud or voting by proxy. However, these irregularities were not confined to members of any particular faction or those with certain former party affiliations, and were a common problem for many factions. In particular, the personal involvements of those subjected to the expulsion controversy, Lee ○-Ki and Kim○Yeon, were not confirmed.

2) Amendment of the Platform by the Central Committee Amid Violence

a) In March 2012, the Respondent formed a Platform Amendment Committee and appointed Kim ○-Ung as Committee Chair and ten members, including Park ○-Soon. However, Kim ○-Ung declined the post of the Chair, and Park ○-Soon acted as Chair to preside over meetings of the Platform Amendment Committee. The preamble to the draft amendment of the platform submitted by the Platform Amendment Committee to the Council Co-Representatives in April 2012 was based on the platform of the former Democratic Labor Party, while its main text was based on the platform of the former Democratic Labor Party and the interim platform adopted at the time the Respondent was founded. The Council Co-Representatives resolved that the Central Committee should review and present its opinion on the draft amendment according to relevant procedures on May 12, 2012, after hearing opinions from party members and from the Nationwide Steering Committee. On May 10, 2012, the 11th session of the Nationwide Steering Committee unanimously approved, without any particular objection or debates, a modified amendment submitted after modifying some parts of the draft to reflect discussions at the Committee for Platform Amendment, such as a modification of the phrase 'build a progressive democratic system' to 'realize a progressive democratic society,' and the deliberation and resolution on the draft amendment of the platform was brought before the Central Committee as the first agenda item on May 12, 2012.

b) The Central Committee meeting on May 12, 2012 began amidst noisy objections about the change of quorum at the Committee, and as soon as co-Representative Sim ○-Jung declared 'unanimity' on the draft amendment of the platform concerning 'realization of a progressive democratic society,' etc., after confirming that there was no objection, violence erupted as dozens of members of the Respondent crowded onto

the podium and inflicted injury upon the security personnel and co-Representative Cho ○-Ho, causing the meeting to adjourn. Thereafter, items that could not be brought for resolution on May 12 were processed by electronic voting on May 13 and 14, 2012, and co-Representatives Ryu ○-Min, Sim ○-Jung, and Cho ○-Ho announced that a resolution on the proposal for the deliberation and resolution on the draft amendment of the platform, proposal for reforms, etc., had been adopted, while announcing the results of the meeting of the Central Committee on May 14, 2012.

3) July 2012 Election for Party Officials and Splitting of the Respondent

a) According to the results of the meeting of the Central Committee, co-Representatives Ryu ○-Min, Sim ○-Jung, and Cho ○-Ho resigned from office, and the Emergency Reform Committee chaired by Kang ○-Gap was formed. The Emergency Reform Committee recommended the resignation of 14 candidates for proportional representatives, including Lee ○-Ki and Kim ○-Yeon, but Lee ○-Ki and Kim ○-Yeon completed registration as National Assembly members and refused to resign from office.

Moreover, Oh ○-Yun, a National Assembly member from the Respondent, alleged that the first fact-finding report was false and fabricated and formed a Party Members' Emergency Committee (led by Chair Oh ○-Yun, Executive Chair Yu ○-Hee, and Spokesperson Kim ○-Hee), in opposition to the Respondent's Emergency Reform Committee. With regard to the violence in the Central Committee, Party Members' Emergency Committee claimed that "Former Chair Sim ○-Jung completely discarded the spirit of agreement by ignoring all regulations and rushing bills through without giving attendees an opportunity to discuss them, despite obvious objections."

Meanwhile, the "special committee for remedies and measures for the

results of the fact-finding report (the second fact-finding committee)" announced the results of the second fact-finding on June 26, 2012 and reported that "it was an election in which procedures and principles of elections were seriously damaged, and the process of the primary for proportional representatives was so improper that irregularities were connived throughout the process of managing the election and in-person or on-line voting." In connection with these results, objections were raised within the party against the destruction of part of the online portion of the first fact-finding committee report and the external report, saying that the reliability and fairness of the report were questionable because some contents of the report were different from the results of the first fact-finding and the report revealed its political intent in the method of analysis, and Kim ○-Hee, Spokesperson for the Party Members' Emergency Committee announced a statement protesting the approval for the second fact-finding report of the Nationwide Steering Committee.

b) Ahead of the election of party officials of the Respondent in July 2012, the competition between factions, such as the reformist group that consented to the expulsion of Lee ○-Ki and Kim ○-Yeon and former leading groups that opposed the expulsion or did not express any opinion over party hegemony got fiercer, and candidates and their supporters who opposed the expulsion of Lee ○-Ki and Kim ○-Yeon held a "rally for the resolution of candidates for the election of party officials of the Unified Progressive Party" on June 21, 2012 to strengthen their internal solidarity.

At this rally, Lee ○-Ki contended that "It is time to be offensive, not defensive, and we have to break through the front, since it is a very important juncture for the transition to begin for our victory by striking factionists and conservative reactionaries face to face. The significance of this election of party officials is a fight between the truth you know very well and falsity. If it is a fair game, if it is a fair election, we (can)

win always. The circumstances are unfavorable at three fronts. The first and strongest one is public security forces. The second and worst one is the press. The third one is faith to ourselves, confidence in our comrades, and our own (resolute) determination and will in regard to the theory of force that can destroy these fronts, which hold temporary but legal power even within the party, the source of force, the vitality of force, and the basis of our victory."

Meanwhile, Yu ○-Hee, one of the candidates who ran for a seat on the Supreme Council, attended the rally and asserted that, "From today on, I am a member of the ○○ faction. the Party Representative faction. and I could say that Lee ○-Ki was our proud comrade. Jeong ○-Ju who came forward as a candidate for Chair of the Seongnam Jungwon regional chapter promised, "I will make ○○-gu in Seongnam the region with the largest number of party members in the country, with the pride of Seongnam, the headquarters of the East Gyeonggi region." Also, Hwang ○-Taek who ran for Chair of the ○○-si Chapter remarked, "I received a lot of personal insults just because I threw myself physically to block the tyrannical, unilateral passage of the amended platform at the Central Committee ... as if I were a gang leader and a reprobate of the leading faction, but I will continue to refuse submission and smile while marching through the rough paths."

c) As a result of the election of party officials of the Respondent, Kang ○-Gap, classified as a member of the reformist group, was elected as party Representative, while Lee ○-Seon, Yu ○-Hee, Min ○-Ryeol, Cheon ○-Seon, and Lee ○-Mi were elected as Supreme Council members.

On July 26, 2012, Sim ○-Jung, floor leader of the Respondent, convened a general meeting of National Assembly members in order to adopt a resolution on the expulsion of Lee ○-Ki and Kim ○-Yeon, but only 12 members, not including Lee ○-Gyu, attended the meeting. As

five members withdrew from voting on the expulsion, only seven members voted. However, the motion for expulsion was rejected because Kim ○-Nam did not fill out the vote and it failed to win the majority of votes (six concurrent votes and one abstention), the quorum required under Article 33 of the Political Parties Act, and it was decided that Lee ○-Ki and Kim ○-Yeon would keep their seats at the National Assembly.

The party members and newly elected party officials who opposed the expulsion of Lee ○-Ki and Kim ○-Yeon held a "Closing Ceremony for Victory Campaign HQ" on August 10, 2012, to review outcomes of the election of party officials and discuss future directions, etc. At the meeting, Lee ○-Ki contended, "The situation facing the progressive party is in a class struggle that progressive democrats fight in order to seize political power, which is essentially a fierce war between revolutionaries and counter-revolutionaries. Are you a revolutionary or counter-revolutionary? There is no place for neutralists in the fierce war. Mentioning a neutral zone and playing a role as a buffer is (reformism and essentially) opportunism. Staggering in a zigzag of some members of the autonomy group who have recently mentioned the theory that both parties are wrong are not our style at all. The recent tumult surrounding the issue of the electoral fraud and the expulsion of proportional representatives are a coup plotted by factionists who attempted to usurp party hegemony. I think they have a strategy to make our party as an outpost of the Democratic Party." Lee ○-Ki went on to say, "First, we should strengthen activities for consolidating the organizations of our autonomous group, among other things. Second, we should spur the improvement of the party's capabilities of self-reliance, among other things. For this purpose, we have to concentrate on five strategic missions. First, we have to expand the class basis, before anything else. Second, it is very important to establish a firm base for strategic support and build a main base in each region. Third, we have to build up capabilities of key figures - key figures of the next generation, among

others. Particularly, the agents of the movements have been considerably aging. Third, I think we have to drastically enhance the popularity of our main party members. We need to crush their attempts to solicit organized planned defection from the party and vigorously support our members' struggles to protect the party to the death, Fourth, we have to break through the Presidential Election. I think we have to take extraordinary and prompt actions so that we can emerge as a major political power in the political situation of the second half of this year, in which we will take aggressive tactics for candidacy. Fifth, I would like to mention concerning struggles for defense, struggles for security. We need to significantly intensify struggles for the protection and security of our party to death."

d) During the deepening conflicts within the party due to the rejection of efforts to expel Lee ○-Ki and Kim ○-Yeon, Lee ○-Hee issued a statement to the media on September 3, 2012, stating, "I admit with deep regret that the violence in the Central Committee disappointed many party members and citizens. My silence and self-discipline were the minimum actions that I could take as a person in such a position to assume ultimate responsibility for the incident. I apologize to party members and citizens for the incident." However, the persons classified as reformists, such as Kang ○-Gap and Sim ○-Jung, decided to split the party, and Party Representative Kang ○-Gap convened a general meeting of National Assembly members on September 7, 2012, to pass a motion for the expulsion, so-called 'self-expulsion' of proportional representative members of the National Assembly, Park ○-Seok, Seo ○-Ho, Jeong ○-Hu, and Kim○-Nam.

Around September 2012, Kang ○-Gap, Kwon ○-Gil, Cheon ○-Se, Lee ○-Mi, Cheon ○-Seon, Kang ○-Won, Roh ○-Chan, Sim ○-Jung, Ryu ○-Min, Cho ○-Ho, and others defected from the Respondent, and the Progressive Justice Party (currently the Justice Party) was founded centered around Roh ○-Chan, Cho ○-Ho, Sim ○-Jung, and others on

October 21, 2012, which effectively split the Respondent. Park ○-Seok, Seo ○-Ho, Jeong ○-Hu, and Kim ○-Nam, National Assembly members, joined the Progressive Justice Party thereafter.

(c) Activities of the Respondent after the Split and the Strengthening of Progressive Democracy

1) The Respondent's third fact-finding report published in October 2012 after the effective splitting of the Respondent concluded that the primary had been conducted generally in a normal condition, despite some problems inherent in the on-line elections (the difficulty in verifying the identity of each voter).

2) Lee ○-Hee, who came forward as the Respondent's candidate for the 18th Presidential Election in December 2012, made pledges to replace the government with a progressive government and erect the Federal Republic of Korea, but withdrew from candidacy.

In *Commentaries on Policy Pledges for the 18th Presidential Election*, the Respondent explains its support of the Federal Republic of Korea, stating, "It was agreed under paragraph 2 of the June 15th Joint Declaration to promote unification on the basis of a common element found in a confederation type unification and a loose form of federation, but it is realistic and reasonable to promote unification in a federation, considering that the South and the North have different systems and pursue different values." The Respondent contends that the 'Federal Republic of Korea' should be built in three phases: during the first phase the National Cooperation Committee in the nature of a council of ministers of the South and the North will fully perform the October 4th Declaration, and this phase will be completed by establishing a national reunification organization (COREA Committee); the second phase will see practical preparations made for reunification under the initiative of the national reunification organization, when issues related to 'the

enactment of a unified constitution, the naming of the state, United Nations membership under a single state' should be discussed and preparations made therefor, under the coexistence of a confederation and a loose form of federation; and in the third phase a unified constitution should be adopted by general votes of the South and the North, a federal government should be formed, and the state should be admitted to the United Nations under a single name of state.

3) In February 2013, the Respondent formed the second Supreme Council (after merger) through an election of party officials. Lee ○-Hee was elected as Party Representative as a sole candidate, and the election for five Supreme Council members were won by Yu ○-Hee, Lee ○-Hee, Min ○-Ryeol, Ahn ○-Seop, and Kim ○-Gyo. Choi ○-Gwon, recommended by farmers, and Jeong ○-Seong, recommended by laborers, were also appointed as Supreme Council members. Party Representative Lee ○-Hee appointed Lee ○-Gyu as Chair of the Policy Committee and Ahn ○-Seop as Secretary General, respectively, with approval of the Central Committee. At present, Lee ○-Gyu is the President and Park ○-Soon is the Vice President of the Respondent's policy research institute, ○○ Research Institute.

4) Finding that party members did not fully understand the amended platform, the Respondent made preparations for intensifying educational programs for party members through the Party Member Education Committee (chaired by Kim ○-Gyo). The Party Member Education Committee presented a proposal for producing a program for mandatory education about the platform in June 2013 by amending the current regulations that provided only mandatory education of party members about gender equality and equality of the disabled, but failed to reach the stage of the amendment of party regulations.

Meanwhile, the Party Member Education Committee made a plan to open 'political schools for officials' in order to provide party officials

with lectures on the current situation and education about the platform, and some metropolitan/provincial chapters put the plan into practice. In addition, the Party Member Education Committee formulated a program and a plan for the organization of lecturers for the program, according to which Lee ○-Yeop, former Chair of the Policy Committee, Jang ○-Jun, researcher of ○○ Research Institute, Son ○-Mok, policy specialist from the Way of Unification, Kwak ○-Ki, researcher of ○○ Research Institute, and Mun ○-Hwan, representative of the Door to North East Asia, would serve as lecturers in the subject titled "Situation in the Transition Period and Tasks of Progressive Parties," Park ○-Soon, Lee ○-Yeop, Lee ○-Hun, Kim ○-Jin, and Bang ○-Su would serve as lecturers in the subject titled "the Platform and Policies of the Unified Progressive Party," and Ahn ○-Seop, Min ○-Ryeol, Kim ○-Min, Kim ○-Ran, etc., would serve as lecturers in elective subjects, but the activity of the Party Member Education Committee has been suspended since August 2013 due to internal conditions of the Respondent.

According to "20 Questions and 20 Answers about the Platform of the Unified Progressive Party," the revised teaching material adopted for the platform teaching plan by the Party Member Education Committee on June 21, 2013, the reality of democracy in Korea is defined as "separation of power, conduct of elections, rule of law = nominal democracy (elementary democracy), but semi-democracy = immature democracy," but 'progressive democracy' is a higher-level democracy positioned between social democracy and socialism on the political spectrum and embracing most elements of social democracy and aiming to overcome capitalism and attain unification in the form of a confederate federation." It also explains that solving three fundamental problems of Korean society, "the problem of classes derived from capitalism, the problem of subordination to foreign power (United States), and the problem of the division of the nation," is the task under the platform, which is the platform of democratization, the platform of

autonomy, and the platform of autonomous unification.

5) The Respondent declared that "the new society that the Unified Progressive Party pursues is a society where progressive democracy is realized" at the Party Policy Convention held on June 30, 2013, and the Respondent proclaimed in the preamble to the party charter amended on the same day that the Respondent "pursues autonomy, equality, peace, unification, democracy, the people's livelihood, ecosystem, and gender equality as supreme values under the banner of progressive democracy," and defined itself as "a policy party with a platform and policies for building a progressive, democratic society where the people are the owner."

(8) Alleged Rebellion Case

(a) Case Facts

1) Tension in Inter-Korean Relations

North Korea launched the long-distance rocket *Kwangmyongsong-3* on December 12, 2012, by applying the technology of ballistic missiles, and in response to the resolution adopted by the United Nations Security Council on January 23, 2013 condemning North Korea's launch of the rocket, threatened that, "We have reached the final conclusion that the denuclearization of the Korean Peninsula is impossible without the denuclearization of the world, and we will take our own physical countermeasures against US sanctions and pressure by expanding and strengthening military forces qualitatively and quantitatively, including nuclear deterrence." Thereafter, North Korea carried out its third nuclear test on February 12, 2013.

The Republic of Korea and the United States jointly conducted the 'Key Resolve,' a combined military training exercise of the Republic of

Korea and the United States, from March 1 to April 30, 2013, and North Korea declared the 'abrogation of the armistice agreement' on March 5, 2013 through a statement issued by the spokesperson of the Supreme Command of the Korean People's Army, effective on March 11, 2013 when the Key Resolve combined training exercise of the Republic of Korea and the United States was to commence. The Republic of Korea and the United States conducted the Key Resolve training exercise for 11 days from March 11, 2013 and formulated and effectuated a "plan for joint preparations against local provocations" on March 22, 2013.

Concerning the United States' deployment of B-52 bombers on the Korean Peninsula, North Korea commented through a statement issued by the Supreme Command of the Korean People's Army, "(i) To defend our nation's autonomy and the dignity of the supreme leadership, we will answer with actual military actions and (ii) our strategic missile units and all artillery corps, which will strike US military bases in the mainland, Hawaii, Guam, etc., of the United States, South Korea and all other enemies in its surrounding area, are put on combat alert level 1." Kim Jong-Un convened an emergency operations conference of the Supreme Command of its People's Army on March 29, 2013 and gave instructions to "(i) mercilessly strike American imperialists' military bases in the mainland, Hawaii, Guam, etc., of the United States and military bases in South Korea, if American imperialists dare to start a reckless fire, and (ii) put strategic missiles on standby, and burn everything to ashes without leaving anything out when the order is issued." Moreover, North Korea announced through a special statement of its parties, government, and organizations on March 30, 2013, "The inter-Korean relationship has entered a state of war" and delivered a message to foreign ambassadors and others in Pyongyang, through the Ministry of Foreign Affairs, advising them to leave the North by reason that it would not be able to guarantee their safety due to the imminent war, and also notified foreigners in Korea through a speech given by the

spokesman of the Korean Asia-Pacific Peace Committee "The war on the Korean Peninsula will be a full-scale war. The foreigners in Korea are advised to evacuate for their safety."

The government of the Republic of Korea proposed North Korea to solve problems through dialogue on April 11, 2013. Kim Kwan-Jin, Minister of National Defense, said before the National Assembly National Defense Committee, "There is no sign indicating that North Korea is attempting to start a full-scale war," and Kim Hyeong-Seok, Spokesperson of the Ministry of Unification, commented, "Our government's opinion is that North Korea should basically come to the place of dialogue to talk about everything that it intends to propose." And John Kerry, Secretary of State of the United States, who visited Korea, proposed on April 12, 2013 a dialogue with North Korea on condition that North Korea observe its international obligation.

North Korea issued a statement through the spokesperson of the Ministry of Foreign Affairs on April 16, 2013 in response to the United States' proposal for dialogue, made a comment on the proposals of the Republic of Korea and the United States for dialogue, lifted the combat alert level 1 issued on March 26 and withdrew *Musudan* missiles on around April 30, 2013. However, North Korea threatened to make five islands in the West Sea 'the sea of fire' on May 7, 2013, and launched five short-distance projectiles to the East Sea during the period from May 18 to May 20, 2013.

2) Respondent's Response to the Current Situation of Inter-Korean Relations

As North Korea's launch of long-distance rockets, the third nuclear test, etc., heightened the war crisis from around December 2012, the Respondent, through its Representative Lee ○-Hee, issued the "Emergency Statement on the Crisis on the Korean Peninsula" on March 6, 2013, urging

"opposition to war, execution of a peace agreement, discontinuance of sanctions against the North and military training exercises, the immediate resumption of dialogue, and government dispatch of special envoys to the North, and appeal for anti-war and peace to people from all walks of life," and diagnosed the circumstances around the start of the Key Resolve military exercise on March 11, 2013, as "the most serious war crisis after the Korean War." On March 18, 2013, the Respondent's Supreme Council appointed its member Yu ○-Hee as head of the Anti-War Peace Implementation Task Force to vigorously conduct mass movements, including a press conference for anti-war and peace, one-man picketing, and anti-war candle light rallies and anti-war signature-collecting campaigns. At an emergency press conference on April 10, 2013, the Respondent's Representative Lee ○-Hee urged "North Korea to stop the test launch of missiles and military actions, the Republic of Korea, the United States and Japan to refrain from making military responses that might trigger a war, the Park Geun-Hye Administration and the Obama Administration to propose a dialogue to the North immediately, and the government to at least permit non-governmental entities' attempt at dialogue."

As the war crisis on the Korean Peninsula examined above diminished around April 2013, during the April 15, 2013 meeting of the Supreme Council, the Respondent diagnosed the situation as "a state where the authorities of the Republic of Korea and the United States are seeking a two-track approach of dialogue and pressure as an exit strategy, changing the conventional one-sided sanctions and pressure," and continued citizens' marches, anti-war peace one-man picketing, and a campaign for collecting 100,000 signatures, while also implementing various plans for countermeasures such as social network services and on-line promotions, reignition of anti-war peace popular actions, such as candle-lit rallies, and concentrated promotion of peace declaration along with Citizens' Action. Moreover, at a meeting of the Supreme Council held on April 25, 2013, the Respondent stated that "given a new form of

confrontation starting in April, our party must propose a new peace solution suitable for the situation. Amidst the fierce political and diplomatic war between the North and the United States over preconditions for dialogue, our peace solutions will have significant political meaning and influence," and conducted a renewed antiwar peace campaign to change the perception of an imminent war crisis on the Korean Peninsula, such as proposing a peace process suitable for the occasion of the President's visit to the United States, advising the government to persuade the United States to initiate dialogues with the North, and holding a workshop of the Supreme Council for two days from May 12.

At the meeting of the Supreme Council on May 6, 2013, the Respondent resolved to readjust the organizational structure by placing an Antiwar Peace Implementation Task Force at the center, starting with replacing the head of the Antiwar Peace Implementation Task Force with Chair of the Autonomous Unification Committee, Min ○-Ryeol, and implementing mass campaigns by planning activities via social network services on-line, activities for propagation and publicity, special programs for the "declaration of the termination of war through a four-party talk" and the "execution of a peace agreement," joint projects with "Citizens' Action for Anti-War and Realization of Peace," etc., and around May 20, the Respondent's Supreme Council adopted action plans for up to August of that year concerning the reorganization of the Antiwar Peace Implementation Task Force, educational programs for party members on peaceful unification, implementation of mass programs for joining the Antiwar Peace Implementation Task Force and development of their bases, etc., and began establishing medium and long term plans.

3) Meetings of Former and Current Party Officials and Party Members of the Gyeonggi Chapter on May 10 and 12, 2013

a) Meeting on May 10, 2013

Around 22:00 on May 10, 2013, former and current officials and members of the Gyeonggi Chapter of the Respondent gathered on the pretext of a lecture on the current situation at ○○ Youth Training Center in Gwangju (the "**May 10th Meeting**").

Presiding over this meeting, Kim ○-Yeol, Chair of the Gyeonggi Chapter of the Respondent, announced that "Everything else we have prepared will be set aside, and we will instead have a lecture delivered by our representative, Lee ○-Ki. We have arranged sessions for discussions and presentations, but we will have to finish today's meeting after the lecture given by our representative, Lee ○-Ki," and further commenting that "The reality is that the state of war has not yet been terminated. It (peace) is possible when the entire nation, aspiring peace, gathers strength and fights against imperialists' greed to invade the Korean Peninsula. Facing the situation where we have to assure the overwhelming dominance of our capabilities of national self-reliance so as to win the great war that we wage against the United States all across our homeland, let us resolve to step forward, together, to meet the desperate demands of our homeland and nation."

Despite attending as a lecturer, Lee ○-Ki ended the meeting with a speech rather than giving a formal lecture: "The state of the Korean Peninsula in 2013 is ... a war. Our people should know precisely that the current situation developing on our Korean Peninsula is so critical that it may determine revolution and anti-revolution. I did not come here today to give a lecture on the situation, but came to decide with you what we will have to prepare and against what we will fight in the current situation. I will close my speech with an arrangement to meet on yet another day. This occasion is not for reminding the lessons we learned from the incident that occurred in the party last year, making a determination, or promoting a new advance (a child's cry), but has been arranged to make a commitment on what we will prepare to face, the great turning point that calls for a new commitment for new change in

our nation (a child's cry), which we have failed to make in the last 60-year period since liberation, or in the one hundred years of history of Joseon. Kim ○-Rae (a commander appearing then), what are you doing! Come swiftly like the wind when the time comes again or when you are called up suddenly. You surely remember that this is the attitude and style that the current situation requires you to keep in daily life and that it is a real problem in preparing ourselves for imminent battles! Don't bring in children. No one takes children to a battle field. We are now in a war, not in a quasi-state of war. The Supreme Command of the Korean people's army invalidated the armistice agreement on March 5. Invalidating the armistice agreement means war. You'd better clearly keep in mind that the war will appear in a form different from previous wars. I will close the meeting by seeing you face to face and making eye contact, in place of a lecture. See you again. Thank you."

b) Meeting on May 12, 2013

Another meeting was held at the ○○ Teaching Hall in Hapjung-dong, Mapo-gu, Seoul around 22:00 on May 12, 2013 ("**the May 12th Meeting**" and together with the above-mentioned meeting collectively "**Meetings at Issue**") with approximately 130 persons attending, including those who had attended the May 10th Meeting. Kim ○-Yeol presided over the meeting, which proceeded in the order of Lee ○-Ki's lecture, questions and answers concerning the lecture, regional discussions, presentations of outcomes of discussions, Lee ○-Ki's final remarks, and Kim ○-Yeol's remarks. Some of the specific portions of the speeches made at the May 12th Meeting will be examined subsequently in the review section concerning the Respondent's activities.

4) Report by Informant Lee ○-Yun and Case Development

Meanwhile, Lee ○-Yun, as member of both the Respondent and one of its founding participant Democratic Labor Party from 1999, and a

member of the Respondent's Central Committee from 2005 to 2012, had from around September 2012 to July of 2013 held study meetings with Hong ○-Seok, the Respondent's Gyeonggi Chapter Vice Chair, and Han ○-Geun, the Respondent's Central Chapter representative ("**Three-person Meetings**"). The Three-person Meetings proceeded with discussions about activities in social organizations and presentations on North Korean books, movies, etc., delivered by Hong ○-Seok to Lee ○-Yun and Han ○-Geun for advance studying.

In around May 2010, Lee ○-Yun informed the National Intelligence Service of activities of some members of the Respondent, including Lee ○-Yun, Hong ○-Seok, and Han ○-Geun, and cooperated with the National Intelligence Service in investigations by recording activities of the Three-person Meetings and activities of members of the Respondent, including the Meetings at Issue. The investigation of the Meetings at Issue became public with the National Intelligence Service's seizure and search of the office of National Assembly member Lee ○-Ki on August 28, 2013, and the Prosecutor's Office charged those who had attended the May 10th Meeting or the May 12th Meeting with the instigation of rebellion, conspiracy, and violations of the National Security Act at the ○○ Court, including Lee ○-Ki and Kim ○-Yeol (Chair of the Respondent's Gyeonggi Chapter), Lee ○-Ho (Labor Committee Chair of the former Democratic Labor Party's Gyeonggi Chapter, and President of ○○-si Social Economy Support Center), Hong ○-Seok (Vice Chair of the Respondent's Gyeonggi Chapter), Han ○-Geun (Representative of the Respondent's Central Chapter, and President of ○○ Medical Welfare Social Cooperative), Cho ○-Won (Chair of the Seongnam sub-Chapter of the former Democratic Labor Party's Gyeonggi Chapter, and President of ○○ Research Institute), and Kim ○-Rae (Vice Chair of the Respondent's Gyeonggi Chapter).

The first-level trial court convicted Lee ○-Ki and Kim ○-Yeol of

instigation of rebellion, conspiracy, violations of the National Security

Act (praising, incitement, etc.) and the rest of the defendants of rebellion plots and violations of the National Security Act (praise, incitement, etc.) but acquitted defendants Lee ○-Ki and Cho ○-Won of violations of the National Security Act (○○ Court Judgment, Case No. 2013 Gohap ○○, et al., Feb. 17, 2014).

However, the Appellate Court partially reversed the first-level trial court's conviction rulings on the conspiracy of rebellion and acquitted the defendants of the conspiracy, but affirmed the conviction rulings against Lee ○-Ki and Kim ○-Yeol for instigation of rebellion, and against other defendants of violations of the National Security Act, and sentenced Lee ○-Ki to imprisonment with labor for nine years with suspension of public qualification for seven years, Kim ○-Yeol to imprisonment with labor for five years with suspension of public qualification for five years, Lee ○-Ho to imprisonment with labor for four years with suspension of qualification for four years, Hong ○-Seok, Cho ○-Won and Kim ○-Rae to imprisonment for three years with suspension of qualification for three years, respectively, and Han ○-Geun to imprisonment with labor for two years with suspension of qualification for two years, but dismissed the prosecutor's appeal against the acquittal portion of the first-level trial court judgment (○○ Judgment, Case No. 2014 No ○○, Aug. 11, 2014).

The prosecution and defendants filed final appeals on August 14, 2014, and the cases are still pending in the Supreme Court (Supreme Court, Case No. 2014 Do ○○).

(b) Respondent's Response to the Alleged Rebellion Case

1) The Respondent formed a "response committee for denunciation of the National Intelligence Service's fabrication of conspiracy of a rebellion and oppression with police power" and insisted that the conspiracy of a rebellion was the National Intelligence Service's political fabrication and

manipulation. With respect to the nature of Meetings at Issue, the Respondent argued through its spokesperson's briefing on August 30, 2013, that they were "party members' meetings convened by Kim ○-Yeol, Chair of the Gyeonggi Chapter of the Unified Progressive Party after consulting with officials of the provincial chapter." The office of spokesperson of the Respondent argued on September 2, 2013 that "the meetings were closed meetings of party officials and active party members in Gyeonggi-do, and Lee ○-Ki, a National Assembly member, was invited only as a lecturer," and Chairs of metropolitan/provincial chapters and regional chapters staged a protest at the National Assembly on the same day to "denounce the National Intelligence Service's manipulation of a rebellion and oppose the bill for the consent of arrest brought before the plenary session of the National Assembly." Moreover, the Respondent repeated its allegations by publishing a "report on the truth in the case of the National Intelligence Service's manipulation of the conspiracy of a rebellion" in October 2013, and Oh ○-Yun, the Respondent's floor leader, and National Assembly members Kim ○-Yeon and Lee ○-Gyu insisted around November 2013 that the conspiracy of rebellion, etc., had been manipulated by the government.

2) Meanwhile, the Respondent's Representative Lee ○-Hee admitted to the inappropriateness of the speeches given at the meetings given his official capacity as a public official and a party officer during a September 4, 2013 press interview on the lecture at the Meetings at Issue, adding, " The persons who take important positions in a political party are required to speak carefully and seriously. I will keep in mind the heavy responsibility of the political party."

3) The Respondent nominated Hong ○-Gyu, who had been under investigation in connection with the rebellion-related case as the Respondent's candidate for the by-election of the National Assembly member of Gyeonggi Hwasung-*Gab* constituency on October 30, 2013, and nominated 33 persons identified as attendees at the Meetings at

Issue as candidates for local council members in the June 4, 2014 municipal election.

4) After the Appellate Court rendered its judgments in the alleged rebellion case, party Representative Lee ○-Hee emphasized that the Appellate Court had not recognized the existence of an underground revolutionary organization called "RO," nor convicted it of conspiracy of a rebellion, and alleged that the case was an unlawful suppression of the Respondent, and that the defendants' conducts did not constitute anything more than violations of the National Security Act.

5) In its defense argument, the Respondent insisted that remarks made by some attendees concerning the response to North Korea's launch of missiles, preparation of weapons, etc., during the lecture delivered at the May 12th Meeting differ from the Respondent's official stance, and that the words used during the lecture were improper as the language of officials of a political party.

C. Whether Objectives or Activities of the Respondent Violate the Basic Democratic Order

(1) Whether Objectives of the Respondent Violate the Basic Democratic Order

(a) Meaning of 'Progressive Democracy' under the Respondent's Platform

The Respondent's current platform, expressly specifying the establishment of a 'progressive democratic society' underwent amendment by a unanimous resolution of the Central Committee on May 12, 2012. Although the amendment did not undergo thorough deliberation or discussion at the Central Committee due to violence in the Central

Committee, the Platform Amendment Committee, created under agreement by the three founding entities of the party, discussed, prepared, and sought internal feedback about the draft amendment, and the Nationwide Steering Committee unanimously passed a resolution to submit the draft amendment to the Central Committee after deliberation; therefore, the draft platform amendment cannot be viewed as lacking consensus within the party. Moreover, at the Party Policy Convention in June 2013, the Respondent declared that "the new society that the Unified Progressive Party pursues is a society in which progressive democracy is realized."

1) Respondent's Perception of Reality as a Background to the Pursuit of Progressive Democracy

a) As reviewed above, ○○ Research Institute, the Democratic Labor Party's policy research institute, published "Progressive Democracy in the 21st Century," authored by Choi ○-Yeop and Park ○-Soon, regarding the June 2011 amendment to the platform of the Democratic Labor Party. As the background to the pursuit of 'progressive democracy' by the Democratic Labor Party as an alternative society or system, this book views the reality of Korean society as demonstrating characteristics of a neo-liberal subordinate nation, and exposing the limitations of the '1987 system.'

As acknowledged by the Respondent, to the extent that the Respondent's aim towards 'progressive democracy' is identical with the 'progressive democracy' introduced to the amended platform of the Democratic Labor Party in June 2011, the Respondent shares the Democratic Labor Party's perception of reality mentioned above.

b) 'Neo-liberalism' interprets the concept of classical liberalism from a new perspective, and widely refers to a stance pointing out the failure of revised capitalism that supports market intervention by state power and

adopting the basic principle of a smaller government role and expanded market mechanism, or an economic policy line or a general line of policies implemented by the U.S. President Ronald Reagan and the British Prime Minister Margaret Thatcher during their administrations in the late 1970s and early 1980s.

Attempts to emphasize the influence of neo-liberalism in understanding and approaching today's social reality or political system, and problematize socio-economic conflicts or inequality entailed by neo-liberalism, have been common in Korean academic or political circles. Among these attempts, there also exist views that neo-liberalism arose not from natural consensus of the majority of Korean society but rather from imposition by external forces, or that neo-liberalism in effect demolishes democratic foundation through its focus on private interests and maximizing the private sphere, while minimizing the public sphere.

To wit, the notion of a 'neo-liberal subordinate nation' is not a brand new concept originally asserted by the Democratic Labor Party and the Respondent, but the outcome of consensus and acceptance regarding the various debates and views present in Korean society.

Meanwhile, the focus of such analysis differs from the analysis of the reality of Korean society that took place through the so-called Societal Formation Debates of the 1980s. If the debates at the time were attempts to analyze the reality on the basis of the relationship between the sovereign and private ownership of means of production, the Democratic Labor Party and the Respondent do not question who has sovereignty. The argument that "the basic nature of neo-liberalism in Korea was not an internal process of development and its fundamental characteristic is 'subordination' transplanted by force," cannot be viewed as a denial of the Republic of Korea as an independent sovereign nation, and by pointing out the problems of 'neo-liberalism,' as criticism of market fundamentalism, they acknowledge and assume the underlying reality of

capitalism.

c) The views of the Democratic Labor Party and the Respondent (in "Progressive Democracy in the 21st Century") that the June Democratic Uprising in 1987 "led to a democratic constitution, the main feature of which was the adoption of direct presidential election, and opened the age of political democratization," and "not only achieved political democratization but also expanded economic democracy," resulting in the establishment of a new and different political, economic, social and cultural modes, coincide with an assessment widely accepted in Korean society. However, when looking at democracy in terms of the values it aims to achieve, rather than approaching it in terms of form, system or methodology, the '1987 system' cannot be viewed as realization of full democracy that does not require further thought and reflection. Questions on what type of democracy should follow 'after democratization' or in the 'post democratization' era, or what problems we must overcome still, and must, continue today.

The argument by the Democratic Labor Party or the Respondent that the dominant-subordinate relationship between the Republic of Korea and the United States has not changed, that the fascistic attribute of domestic bureaucracy and the National Security Act are still in operation blocking the advancement of democracy, and that the change of government from the ruling party to the opposition and the successful rise to power by democratization forces after the election in December 1997 failed to root out the privileged structure for the old privileged forces ("Progressive Democracy in the 21st Century") can be understood as one perspective regarding the limitations of the 1987 System.

The assertion that the concept and system that the 21st century progressive democracy pursues is to guarantee practical and substantive democracy beyond procedural and formal democracy, accomplish economic democracy beyond political democracy, and accommodate what

the people aim for and need beyond the limitation of the liberal bourgeois class ("Progressive Democracy in the 21st Century") is nothing more than an argument about the direction of democracy presented as a political party desiring to play a leading role in the citizen's political decision making process, and cannot be viewed as an attempt to disparage or deny the values of the established democracy.

d) The Petitioner cites Park ○-Soon's remark that "Korean society is a colonial semi-capitalist society" in the article presented at the "Forum on the Nature of Korean Society and Revolutionary Strategies" in October 2007, entitled, "The Nature of Korean Society and the Direction of Revolutionary Movements in the June 15th Era," and equates this with the Respondent's perception of reality.

However, at the time of this forum, Park ○-Soon had just joined the party, and as an ordinary member with no title, held no position to exert influence within the party, and therefore her remark cannot be directly equated with the Respondent. Also, Park ○-Soon testified in the present case about the changed perception of the reality of Korean society to the effect that, "Defining Korean society as a colony means that Korea is without sovereignty, and if Korea is a colonial society, it means the constitutional system of Korea is meaningless. I decided that the notion of seizing power legally under such a constitutional system was contradictory, and that the colonial definition has already become obsolete." In light of the depiction of the nature of Korean society in the articles written by Park ○-Soon after taking office as a party official in the Democratic Labor Party and in particular those about 'progressive democracy,' Park ○-Soon's testimony has credibility. The Respondent's perception of today's reality cannot be inferred from the past writings that the author now calls an 'obsolete definition.'

2) Characteristics of Progressive Democracy and Major Policies

a) The Respondent explains 'progressive democratic society' in the preamble to its platform as follows ("Commentaries on the Platform"):

First, it is a democratic system based on diverse ideas of progressive democracy attempting to reform liberal democracy, which has been revealing its limitations, and the underlying diverse progressive ideas have commonalities such as properly controlling private ownership and market. Second, politically, it is democracy by the people, and is a new democratic system abolishing the power structure monopolized by the privileged forces and enabling the people to directly seize and control political power. Third, it is a new alternative economic system that overcomes the subordinate neo-liberal system, with core goals of abolishing the economic system driven by foreign capital and export and oriented toward chaebol, and restructuring it to be driven by domestic capital and demand and oriented toward small and medium enterprises.

b) Respondent's policies in five areas for realizing progressive democracy are as follows ("Commentary on Party Policies of Progressive Democracy"):

First, in connection with 'recovery of sovereignty,' the Respondent pursues, inter alia, the termination of the unequal Korea-US alliance [amendment or abolition of the Status of Forces Agreement (SOFA), abrogation of the Mutual Defense Treaty between the Republic of Korea and the United States of America, phased withdrawal of the US military forces from Korea, abrogation of military policies such as the nuclear umbrella, and restitution of the US military bases in Korea], amendment or abolition of unequal agreements and treaties (including the Free Trade Agreement between the Republic of Korea and the United States), establishment of an alternative trade order, control of

volatility of international speculative capital, recovery of economic sovereignty by converting key businesses dominated by foreign capital (such as finance, communications, transportation, energy and public services) into public corporations, implementation of policies for growth based on domestic demand, redistribution of income by tax reform and expansion of credit for low-income citizens, and establishment of food sovereignty by implementing a system for state's purchase of basic agricultural products.

Second, in connection with 'realization of democracy by the people,' the Respondent pursues, among others, abrogation of the institution under the National Security Act, abolition of the privileged power structure (reform of the judiciary and the police), proper correction of historical records, reform of political party and election systems (including introduction of runoff voting for presidential elections), expansion of direct democracy, abrogation of the chaebol-oriented economic system and economic democratization, promotion of small and medium enterprises and social enterprises, diversification of ownership structure, expansion of an economic system led by the people, etc.

Third, in order to "bring peace and autonomous unification to the Korean Peninsula," pursue, inter alia, establishment of peace on the Korean Peninsula through a peace agreement, unification with coexisting systems, and establishment of a unified economic system through expansion and development of economic cooperation between the South and the North.

Fourth, in order to "solve five main problems for people's livelihood and to realize social equality," pursue, inter alia, a society respecting labor, education as a public service, free education and free medical services focusing on public medical institutions.

Fifth, in order to “realize an ecologically sustainable society,” pursue, inter alia, termination of developmentalism, introduction of the state’s ecology management system, denuclearization by 2040, conversion into a decentralized renewable energy system and establishment of a South-North environmental community.

3) Details of Progressive Democracy

a) People’s Sovereignty

i) National Sovereignty Under Our Constitution

Article 1 (2) of the Constitution proclaims the doctrine of national sovereignty, prescribing, “The sovereignty of the Republic of Korea shall reside in the people, and all state authority shall emanate from the people.” This provision means that the source and holder of state power are the people and that only the people can legitimize state power. The doctrine is the fundamental principle underlying the ruling order of this country that governs the formation, exercise and control of public power (Constitutional Court, Case No. 99Hun-Ba113, Mar. 30, 2000), and constitutes one of the key elements of the basic democratic order.

In a modern democratic country, the people enact the constitution, create state power, grant democratic legitimacy thereto and participate in the political decision-making process, not only to coordinate state actions democratically but also to exercise sovereign power to adjudicate any deviation of the state power. This is also the basis for guaranteeing human dignity and value, which are the core indicators of the Constitution, and fundamental rights derived therefrom.

The Constitutional Court held that “under our Constitution to date, people’s sovereignty has so far failed to become an actual people’s sovereignty, contributing instead to rationalize sovereignty of the people as a formality only, while the theory of national representation has failed

to become the modern theory of actual representation, remaining instead as a premodern representative theory rationalizing only discretionary, arbitrary and dogmatic exercise of power far removed from the will of the people," and also emphasized realizing actual people's democracy, arguing that "enabling voters to form a new political order by providing them with systems and rights appropriate for practically exercising sovereignty so that they can keep up with the development of society is to actualize national sovereignty under the Constitution and conforms to the principles in the preamble and text of the Constitution," (Constitutional Court No. 88Hun-Ka6, Sep. 8, 1989).

ii) 'People's Sovereignty' Advocated by the Respondent

① Under the title "Toward a World Owned by Working People," the preamble to the Respondent's platform defines the Respondent as a "political party that reflects and represents demands and interests of the working people, including laborers, farmers and small and medium enterprisers, and that will open a world owned by the working people by putting their wisdom and strength together." It is further declared that it will "establish an autonomous democratic government in which the working people are the owner, and realize a progressive democratic society where the people command all aspects of social life, including politics, economy, society and culture." Also, Article 2 of the Respondent's charter provides that "the objectives of our party are to realize national autonomy, democracy and peaceful unification, and to build an equal world where the people are the owner." This means that the Respondent is a party of the 'working people' and a progressive party dreaming of building a new society where the working people (the people) are the owner ("Commentaries on the Platform"), indicating the Respondent's ultimate goal.

As for the meaning of the term 'working people,' the Respondent explains that it does not refer to the entire citizens but refers to the

'people' who are contributors to the development of society and advancement of history, excluding the privileged ruling class ("Commentaries on the Platform"). Also, they constitute people of all classes and strata who are politically oppressed and economically exploited, which should be understood as having more complex and diverse forms, and at least 95 percent of the population is the people ("Progressive Democracy in the 21st Century").

In addition, the Respondent contends that "The notion of people's sovereignty refers to, and is not just borrowed from, the Western notion of popular sovereignty, and it recognizes the hostility that exists in class conflicts in a society, and due to such conflict, the sovereignty of each member of society is not identical but divided and conflicted, and based on the particular stance and interests of the class or stratum it represents, and therefore, depending on from which class's or stratum's interests the sovereignty issue is approached, the substance of sovereignty and the method of realizing it inevitably vary. In this regard, since the sovereignty of the privileged ruling class and that of the people opposing the class (majority citizens) are in conflict with each other in our society, the sovereignty issue should be approached with a focus on the interests of the people." ("Progressive Democracy in the 21st Century.")

While the sovereign of a nation is the entire people of the nation, this is an abstract notion. In reality, the members of a nation are individual persons distinguished from one another, and do not form an entirely unified entity or have a single opinion. Moreover, each member of a nation belongs to various communities simultaneously, and conducts activities based on their individual characters and thoughts as well as the perspectives and the spirit of the community to which they belong. The thoughts or interests of an individual and those of various communities to which the individual belongs sometimes contradict and conflict with one another.

Given this pluralistic structure of conflicts in Korean society, the reasonable interpretation of the Respondent's arguments concerning people's sovereignty would be that in the course of resolving social conflicts, the majority of the nation should have the power to exercise actual sovereignty and to participate in the state's decision-making process and the creation and control of state power, instead of a few persons wielding illegitimate privileges.

The Respondent contends that "the peoples' sovereignty is incompatible with political and economic privileges of the ruling few," but what the Respondent views as "hostile conflicts" refers to hostility between the 'sovereignty of the people' and the 'political and economic privileges' of the few ("Progressive Democracy in the 21st Century"). The Respondent argues that what the people's sovereignty aims for are establishing an equal political structure and eradicating the monopoly of sovereignty, and that "realization of political autonomy, an equal political structure and direct democracy, and establishment of a scheme for peoples' control of bureaucracy" are the four basic elements of people's sovereignty (the party's teaching material, "Progressive Democracy in the 21st Century"). In light of such argument, the Respondent cannot be viewed as perceiving the 'privileged ruling class' or the 'ruling few' literally as the 'enemy' and arguing that they should be excluded from the state's decision-making process and state's decisions in such situation is justified. Rather, what the Respondent asserts can be understood as aspiring to eliminate the privilege monopolizing the sovereignty, which should not be monopolized, on the premise of the presence of such privilege.

The Respondent advocates the realization of the "principle of people's sovereignty, breaking the limitation of the taxidermied principle of people's sovereignty under which sovereignty is formerly declared as residing in the entire members of the nation but actually monopolized by the privileged class, and enabling the working people to actually enjoy

political and economic sovereignty," and makes it clear that "the Unified Progressive Party does not deny or reject the capitalist class." ("Commentaries on the Platform") Also, the Respondent explains that "equal rights to vote and to be elected are basic elements of democracy" ("Commentary on Party Policies of Progressive Democracy").

In sum, the people's sovereignty advocated by the Respondent cannot be viewed as excluding the 'privileged ruling class' or 'ruling few' from the abstract scope of the members of a nation as the sovereign, as argued by the Petitioner, and rather should be interpreted as an aspiration to substantially guarantee sovereign rights of the classes and strata that have been dispossessed of political and economic powers to date.

② The Respondent declares that it "seeks to fundamentally change Korean society" and that since the "current society is not a society owned by the working people but a society in which the privileged few act as if they owned the society" and "an upside-down society," it is the dream of the Respondent to "set the upside-down social structure right and build a world where the working people are the owners of society." ("Commentaries on the Platform.")

Even if Korean society is oriented toward a democratic and equal society, it cannot be said that the society does not have a privileged few or privileged class that takes advantage of institutional loopholes and habitually commits fouls to enjoy illegitimate power and wealth. The Respondent's argument is that it aspires to eradicate the 'privilege' and 'monopoly of sovereignty' of a small group of people in order to correct the failure in fully realizing people's sovereignty.

Also, it is reasonable to view the discussions of fundamental change for the realization of ideal politics and society by the so-called progressives, who allegedly pursue change or advancement of society

based on legality in the advancement of history, as a kind of political rhetoric.

Meanwhile, the Respondent criticizes national sovereignty by comparing 'liberal democracy' based on 'national sovereignty' with 'progressive democracy' based on 'people's democracy.' It asserts that although Article 1 of the Constitution "expressly provides for the principle that the sovereignty resides in the people" and this means that the purpose or goal of politics must be to actually contribute to the realization of autonomous demand, aim and interest of the generality of the people and to guarantee their participation in the political process as owners," but "if anyone asks whether the generality of the people actually enjoy sovereignty, the answer would be negative." It also contends that while liberal democracy "declares that every citizen is entitled to possess and enjoy equal sovereignty," "under a liberal democratic system, in which political, economic and military powers are in the grasp of a certain class among hierarchically divided classes, national sovereignty that is equal and even among citizens is a mere illusion." ("Progressive Democracy in the 21st Century").

Such an argument is not a denial of national sovereignty itself under the Constitution. On the contrary, the Respondent fully accepts the doctrine of national sovereignty under the Constitution, but perceives the liberal democratic system in Korean society as failing to substantially realize the doctrine of national sovereignty, and the people's sovereignty which the Respondent sees as a realization of national sovereignty and the alleged foundation of the current system, as reduced to a formality.

The so-called 'deficit of democracy' in representative democracy, such as elitism, distrust of politics and isolation of citizens from political process, exist also in advanced Western countries known as model parliamentary democracies, and scholars still share criticisms over early liberal democracy in the so-called 'bourgeois democracy,' which

approves the hegemony of the capitalist class or bourgeoisie.

The Respondent's criticism of national sovereignty in liberal democracy can be understood in this context, and should not be viewed as a complete denial of liberal democracy or national sovereignty, nor a pursuit of fundamental changes to entirely exclude national sovereignty and liberal democracy.

③ The Respondent claims to be a political party of laborers, farmers, fishermen, the urban poor, small, medium or petty entrepreneurs, and of women, people with disabilities, youths, students and conscientious intellectuals. It also declares that all laboring workers and all people suffering from social inequality, discrimination or oppression are its masters and that it exists for these people (Respondent's Charter). It further declares that the privileged few cannot become its owner and that unlike other political parties, it would never approve political and economic privileges monopolized by the privileged few, and would fight against them without compromise and protect the political and economic interests of the working people ("Commentaries on the Platform").

Moreover, the Respondent asserts that while existing alliances stress labor-centeredness based on the hegemony of the working class and give top priority to class issues and treat other issues as secondary, the new alliance in the 21st century should be based on equality of all allied forces. The Respondent also contends that the labor class as leading class means that the working class must make greater commitments and sacrifices than other classes or movement forces, and must place the needs and interests of other classes and strata above its own needs and interests ("Progressive Democracy in the 21st Century").

This could be seen as demonstrating the characteristics of the Respondent as a class coalition party led by the working class. However, the growth of class politics following the formation of the working class

as a political force is already a historically universal phenomenon and a dominant feature in advanced Western democratic countries. Although class politics is declining even in those countries due changes in the political, economic and social conditions that have been propping up class politics and expansion of the politics of compromise based on Keynesism, class political parties remain active in many countries, and they do not contradict the principle of national sovereignty.

Political parties participate in the formation of citizens' political will while competing with each other, and under the multi-party system, different political forces and ideas undergo the process of cooperation and coordination to form the final will of the nation. Presence of a certain party that thinks other parties are not sufficiently considerate of a certain class and thus focuses on serving the interest of that class can contribute to the formation of a balanced and integrated will of all citizens by representing the interest of that class in the national decision-making process. When a certain class that a political party intends to represent is a social minority or a socially disadvantaged class, intensely pursuing the interest of that class can be justified as efforts to strengthen the foundation for realization of substantial democracy. It would be a big logical leap to view such activities as denying the sovereign rights of the classes with conflicting interests, or opposing, the class that the party represents.

After all, even if the Respondent's primary orientation is towards participating in the formation of, and reflecting, the political will of a certain class and stratum, the Respondent cannot be found to be denying the doctrine of national sovereignty on this ground.

④ As means of guaranteeing people's sovereignty, the Respondent advocates the "amendment of the Political Parties Act and electoral legislation, to adopt, among others, the runoff voting for presidential elections and the German-style party list proportional representation

system" and the "expansion of direct democracy, by institutionalizing citizens' participation in, and monitoring of, the process of budgeting, policy-making, etc." (text of the platform).

The Respondent asserts that the current election system undermines the equivalency of votes, forces a two-party system that fails to represent the interest of minorities, and in particular in this country, combines with and intensifies regionalism. In order to reform this, the Respondent argues that it is necessary to implement the German-style party list system and the runoff voting for presidential elections to ensure the representativeness and legitimacy of presidency and to stabilize party politics by institutionally guaranteeing an electoral coalition ("Commentaries on the Platform", and "Commentary on Party Policies of Progressive Democracy").

Furthermore, the Respondent urges the expansion of direct democracy to give greater power to the people by proposing the "introduction of people's legislative power, people's right to initiative national referendum, and people's recall, etc., as an institutional device to ensure people's direct participation in the process of policymaking by the government, the legislature and bureaucrats and to formulate and implement policies based on people's needs." ("Commentary on Party Policies of Progressive Democracy.")

In addition, the Respondent urges the "firm establishment of the separation of powers of the legislature, the judiciary and the executive, and democratic reform of state's power structure," and "thorough reform of the prosecution and the judicial system" (text of the platform). The Respondent also asserts the need to reform imperial presidency and totalitarian administration system, ensure solid independence of the judiciary by strengthening the guarantee of status of judges, expand the scope of constitutional litigation, and complement representative system by direct democracy ("Commentaries on the Platform"). For this, the

Respondent argues that reform must be carried out, including further expansion and strengthening of the referendum system, improvement and effective enforcement of recall of public officials, establishment of a government agency responsible for investigation into corruptions of high-ranking officials, and diversified composition of the Supreme Court.

These arguments or policies presented by the Respondent have already been discussed or promoted on a number of occasions, in academic and political circles and civic society, and there is no ground to view these as aiming at excluding a certain class or stratum from the political realm.

⑤ One of the objectives of political parties and politicians is to seize power and win an election, gaining support from majority citizens. In doing so, they display tendencies to use more or less emotional, offensive or inflammatory expressions, and it is also easy to notice their attempts to assume or form a confrontational structure between the class supporting them and the other classes. The Respondent's somewhat aggressive and militant remarks among its assertions can also be understood in the same context.

For example, the basic platform (party policies) of the Liberal Party led by former President Rhee Syngman provided in Section 2, "We will repel oppression and exploitation by hegemony in the monopolistic economy, promote the rights and interests of the working people, farmers, ordinary citizens, conscientious entrepreneurs and people with skills, deny the causes and practices of inequality, and promote the safety and betterment of people's lives based on the doctrine of mutual help and aid." Section 2 of its code of action (policies) provided, "Since laborers, farmers and the working people are the owners of a democratic country, we will respect and advocate people's welfare and authority and must not wield wealth or power to affect their welfare and authority." These made it clear that laborers, farmers and the working people, as

opposed to the hegemony in the monopolistic economy, are the owners of a democratic country.

Meanwhile, the platform of the New Democratic Party led by Yu ○-O, provided, in Section 3, the character of the party, "Our party expressly declares that the present economic system is an anti-democratic and anti-people system that serves bureaucrats and privileged *chaebol* for the accumulation of monopolistic wealth through merciless exploitation of farmers and laborers and sacrifice of small and medium enterprises.....re pledge to establish a mass economy that promotes the interest of the absolute majority of the people, by focusing on representing the interest of the middle class, which is the basic forces of democracy, and protecting the rights and interests of laborers." By this, it criticized the privileged class and asserted the protection of laborers, etc., as the Respondent does.

Also, the People's Party founded in 1990 made a declaration very similar to the platform of the Respondent. It contended that the people in Korean society were "all members of the nation who suffers under, and strive to overcome, the dictatorship, monopolistic *chaebol* and rule of foreign powers, to wit laborers, farmers, the urban low income earners, the middle class, intellectuals, women, young students, and small and medium entrepreneurs." It declared that its "objective is to eliminate all existing privileges and inequality" and that it will "make every effort to end the dictatorship, monopolistic *chaebol* and rule of foreign powers, overcome the national division and realize democracy by the people, by promoting the political awakening and organization of the people including laborers, and integrating the entire capacity of the people."

⑥ The Petitioner argues that the people's sovereignty advocated by the Respondent is identical to the people's sovereignty of North Korea.

Article 4 of the DPRK Constitution provides, "The sovereignty of the

DPRK resides in the workers, peasants, soldiers, working intellectuals and all other working people. The working people exercise power through their representative organs – the Supreme People’s Assembly and local people’s assemblies at all levels.” The scope of the ‘working people’ defined by North Korea as the sovereign is almost identical to the scope of the working people, to wit the people, asserted by the Respondent.

However, the DPRK Constitution provides in Article 11, “The Democratic People’s Republic of Korea shall conduct all activities under the leadership of the Workers’ Party of Korea,” and in Article 12, “The State shall adhere to the class line, strengthen the dictatorship of people’s democracy and firmly defend the people’s power and socialist system against all subversive acts of hostile elements at home and abroad.” In that it expressly specifies the dictatorship of the Worker’s Party of Korea and exclusion of “hostile elements at home and abroad,” the people’s sovereignty of the North is distinguished from the people’s sovereignty advocated by the Respondent, which only excludes the privileges of the privileged and ruling few. Above all, the Respondent has never argued that only a political party that represents a certain class must exist or that a dictatorship by such party must be realized on the basis of the absolute nature of the political line or ideology that it pursues. Also, while the DPRK Constitution requires sovereign rights to be exercised through representative organs, the people’s sovereignty advocated by the Respondent is to be realized by reinforcing elements of ‘direct democracy.’ In this respect as well, the people’s sovereignty of the North differs from the people’s sovereignty advocated by the Respondent.

iii) Sub-conclusion

The ‘people’s sovereignty’ advocated by the Respondent can be understood as its commitment to represent the interest of the people that

constitute the Respondent's class or stratum basis and to reform the current political system and institution, and does not deny the doctrine of people's sovereignty.

The Respondent's criticism of liberal democracy and national sovereignty goes against the *laissez-faire* political and economic phenomena which fail to realize the doctrine that the sovereignty resides in the people under the Constitution and allows a few to enjoy privileges. The Respondent cannot be viewed as denying basic human rights or the principle of democracy, on the ground of such criticism.

b) Autonomous Self-sustaining Economic System Oriented Toward People's Livelihood

The Respondent asserts that it will build "a new alternative economic system that overcomes the subordinate neo-liberal system ("Commentaries on the Platform")." The Respondent argues that the Korean economy is a vending-machine economy that supplies transnational monopoly capital with immense wealth without any check; the economic development model driven by foreign capital and export is a structural framework that expands and reproduces such mechanism; the *chaebol*-oriented economic system is an economic governance structure that stabilizes such mechanism; and thus it intends to abolish them and "restructure the economic structure to be driven by domestic capital and demand and oriented toward small and medium enterprises." ("Commentaries on the Platform")

To this end, the Respondent urges the tightening of regulation of international speculative monopoly capital; amendment or abolition of unequal economic treaties; economic democratization and strengthening of an economic system driven by domestic demand and small and medium enterprises by protecting and fostering small and medium

enterprises and self-employed micro-businesses; and vitalization of the grassroots economy by rearing small and medium enterprises with an alternative ownership and control structure, such as cooperatives, worker-managed enterprises and social enterprises (text of the platform).

Also, the Respondent declares that it will ① "end the privatization of key national industries and social services, and diversify the ownership structure of production means through increased social interventions, such as nationalization and communalization" and ② "dismantle the economic system oriented toward monopolistic *chaebol*." (text of the platform)

The former ① is an alternative proposed on the premise that the privatization of key national industries and social services has been threatening citizens' livelihood, and as the ownership structure and form of public services, the Respondent offers a "mix of nationalization, communalization, cooperation, individual ownership, etc. ("Commentaries on the Platform")." For the methods thereof, the Respondent declares that it will "take forceful measures such as the enactment of special acts and ownership of majority shares by public funds and measures such as the establishment of national funds, including the national pension, and control through golden shares that give the holder the right to veto major management issues ("Commentary on Party Policies of Progressive Democracy").

The latter ② represents the Respondent's intent to "dismantle the octopus arms style *chaebol* monopoly, through institutional mechanisms and control measures such as the prohibition of circular equity investment, strict separation of banking and commerce, and a forced break-up of affiliated corporate structure, in order to prevent the reckless diversification of business, and other necessary regulations on *chaebol*," and to "eradicate practices such as purchase price slashing, unfair subcontracting and unfair intra-group trading by large companies," as

efforts to enforce "democratic control of the market ("Commentaries on the Platform")."

Such argument by the Respondent is not new or radical at all in Korea's constitutional history. The Program for Establishing the Republic of Korea announced by the Provisional Government of the Republic of Korea in November 1941 specified the "nationalization of land and major production institutions." Also, while provisions related to the economy in the draft constitutions prepared by various political organizations in civic society after liberation from Japanese colonial rule differed from each other depending on which camps they represent, even the draft constitution proposed by a right-wing camp also advocated the "state's management of public services and other monopolistic enterprises as a principle."

Furthermore, the Constitution of the Republic of Korea (Constitution No. 1) enacted on July 17, 1948 provided, "Workers employed by a private enterprise engaged in a profit-making business shall have an equal right to share profits as prescribed by the relevant Act" in Article 18; "The principle of the economic order of the Republic of Korea shall be to promote the realization of social justice and balanced development of the national economy to satisfy the basic demands for the livelihood of all citizens. Each individual shall be guaranteed economic freedom within this limit" in Article 84; and "Farmland shall be distributed to farmers, and the method of distribution, the limit of the land that can be owned, and the details and limitation of ownership shall be prescribed by laws" in Article 86; and that enterprises engaged in important services, such as transportation, communications, finance, insurance, electricity, repair, public water supply, gas, or other public service shall be nationalized or communalized, in Article 87. Articles 18, 84 and 86, among the above mentioned Articles, remained effective until the Constitution was wholly amended by Constitution No. 6 on December 26, 1962, while Article 87 remained effective until the Constitution was

amended by Constitution No. 3 on November 29, 1954.

Comprehensively considering the above, the autonomous self-sustaining economic system oriented toward people's livelihood advocated by the Respondent is to strengthen democratic control of the market and state's regulation and coordination in order to realize social welfare and justice. It does not contradict the economic order under the Constitution, and cannot be viewed as an argument to deprive the people of private property rights or the freedom of economic activities, which is the economic basis for guaranteeing basic human rights.

c) Autonomous Peaceful Unification and the Korean Federation

i) Principle of Peaceful Unification under the Constitution

The preamble to the Constitution provides, ".....We, the people of Korea, having assumed the mission of peaceful unification of our homeland and having determined to consolidate national unity with justice, humanitarianism and brotherly love.....," Article 66 (3) of the Constitution provides, "The President shall have the duty to pursue sincerely the peaceful unification of the homeland."

The above provisions concerning unification under the Constitution clearly declare that unification is a task and mission of the nation and state, and proclaim the principle of peaceful unification based on the basic order of liberal democracy. Therefore, the unification pursued under the Constitution is not a denial of the existence and security of the Republic of Korea, but unification based on the basic order of liberal democracy, not the one causing harm to the basic order of liberal democracy (Constitution Court, Case No. 98Hun-Ba63, Jul. 20, 2000).

However, except for the above basic principle of unification, the Constitution does not specify detailed plans for or the process of

unification or the form, organization, etc., of the government of the Republic of Korea after unification. So discussions thereon are basically guaranteed by various fundamental rights, such as freedom of expression and academic freedom, and it also falls under freedom of activities of political parties, one of the objectives of which is to participate in the formation of citizens' political will. To wit, detailed plans for unification or organization, etc., of the government after unification have yet to be determined, and it is hard to view any certain unification policy as being part of the basic democratic order.

Therefore, what is important in determining whether the Respondent's unification policy examined here is contrary to the basic democratic order is whether the unification pursued by the Respondent substantially undermines or aims to abolish the minimum elements of the basic democratic order.

ii) Nuclear-free Peace Regime on the Korean Peninsula and Autonomous Peaceful Unification

① The Respondent declares that it will "establish a nuclear-free peace regime on the Korean Peninsula" and "accomplish autonomous peaceful unification." (preamble to the platform) It also pledges "early establishment of a nuclear-free peace regime on the Korean Peninsula and in Northeast Asia, through, *inter alia*, replacement of the Armistice Agreement with a peace agreement," as well as "withdrawal of the United States' military forces from Korea and termination of a subordinate Korea-US alliance," "switching it to a Northeast Asia multilateral peace and cooperation mechanism." (text of the platform)

The 'nuclear-free peace regime' advocated by the Respondent is to establish a peaceful order with the risk of a nuclear war fundamentally eliminated and with no crisis of war, by achieving denuclearization of the Korean Peninsula and a peace agreement at the same time.

'Autonomous unification' means to establish a unified regime, under which the South and the North coexist and prosper by independently achieving reconciliation, cooperation, solidarity and unity by the Korean people without intervention of foreign powers in accordance with the June 15th Joint Declaration and the October 4th Declaration ("Commentaries on the Platform").

② Establishment of a peace regime through a peace agreement advocated by the Respondent shares some elements with the phased strategy for peace proposed by the Roh Moo-Hyun Administration as part of the peace and prosperity policy. However, while the Roh administration's plan is to resolve North Korean nuclear issues first, what the Respondent asserts is to achieve the denuclearization of the Korean Peninsula and the peace agreement as a package settlement. In this respect, the Respondent's argument more or less conflicts with the Roh administration's plan.

Nevertheless, no ground exists to find that an opinion viewing the denuclearization of the Korean Peninsula not as a condition precedent to the peace agreement but as what should be performed simultaneously is tantamount to an argument denying the appropriateness of denuclearization and, further, advocating the North's possession of nuclear weapons or approving the threat of a war by the North. Such opinion is a matter of methodology or policy for establishing a peace regime, and falls within the boundary of freedom and responsibility of a political party, and thus should be determined and realized through debates and discussions at a public forum, and ultimately according to people's choice.

③ In order for the Korea-US alliance for peace and security on the Korean peninsula to advance based on long-standing mutual trust, it is most important to establish a reciprocal relationship based on a horizontal partnership. In particular, issues concerning the formation and

maintenance of a military alliance and the presence of foreign military forces in Korea need thorough review from the perspective of practical needs for the security of the Republic of Korea or equal international cooperation, and the determination of such issues requires national consensus through a process of gathering opinions of diverse points of view and public debates, just like other political or diplomatic decision-making.

The question that the Respondent raises with regard to the alleged inequality of the "Agreement under Article IV of the Mutual Defense Treaty between the Republic of Korea and the United States of America, regarding Facilities and Areas and the Status of the United States Armed Forces in the Republic of Korea (SOFA)" or the alleged subordinate nature of the wartime operational control (platform, and *Commentaries on Policy Pledges for the 18th Presidential Election*) is one aspect of long-standing discussions in Korean society, and should not be blindly branded as anti-American disposition or an attempt to undermine national security.

④ The respect for or performance of South-North agreements is what is basically required for the "improvement of inter-Korean relations, settlement of peace on the Korean Peninsula, and establishment of the basis for unification," which are the goals of the Korean Peninsula Trust-Building Process. The Respondent's argument that the establishment of an autonomous unified system by the Korean people does not differ from the principle of unification through 'autonomy, peace, and grand national unity' adopted in the South-North Joint Statement on July 4, 1972, or the principle proclaimed in the Joint Declaration (section 1) on June 15, 2000 to "resolve the issue of unification independently and through joint efforts of the Korean people who are the owners of the Koreas," or the Declaration (section 1) on October 4, 2007, confirming adherence to and implementation of the June 15th Joint Declaration and agreeing to "resolve the issue of

unification independently based on the by-the-Korean-people spirit.”

iii) Federal Korea Unification Plan

Unlike the Democratic Labor Party that expressly stated its “vision for unification under a federation” under its platform amended in June 2011, the Respondent does not specify a particular unification plan under its platform but proposed a ‘federal Korea unification plan’ as a pledge for the 18th Presidential Election.

The Respondent advocates a federal unification plan on the ground that although the South agreed to pursue unification based on common elements in a confederation and a loose form of federation (section 2 of the June 15th Joint Declaration), “the unification process toward a federation is realistic and rational, taking into consideration the differences in the South’s and the North’s regimes and the values they pursue.” (“Commentaries on Policy Pledges for the 18th Presidential Election.”)

According to the Respondent, in order for the two Koreas to advance toward unification beyond the age of division in the current inter-Korean relations with two separate regimes and systems persisting for decades and with deep-rooted mutual distrust, it is necessary to establish a “unification system that recognizes and respects both regimes and systems and allows them to coexist.” (“Progressive Democracy in the 21st Century”)

The Respondent proposes a three-phase construction of the ‘Federal Republic of Korea’ (“Commentaries on Policy Pledges for the 18th Presidential Election”): The first phase is to fully implement the October 4th Declaration by the national cooperation committee, which would be a kind of a council of ministers of the South and the North, and will be completed by establishing a national unification organization (COREA

Committee); the second phase will make actual preparations for unification under the initiative of the national unification organization and to negotiate and prepare for issues such as the "enactment of a unified constitution, decision on the name of the country, and UN membership as a single entity," and during which a confederation and a loose form of federation will coexist; and the third phase will establish a unified constitution through a general referendum in the South and the North, form a federal government, and join the United Nations as a single nation, completing the process of unification.

The national unification organization to be established during the first phase is a legislative and executive organ, jointly headed by Prime Ministers of the South and the North, and consisting of relevant ministers and representatives from the National Assembly, political parties, civic societies, etc., and makes decisions by unanimity ("Commentaries on Policy Pledges for the 18th Presidential Election"). It is distinguished from a federal central council in that resolutions require approval of inter-Korean summits, and it does not function as a central government since the South and the North exercise their respective diplomatic and military powers ("100 Questions and 100 Answers about Pledges of the Unified Progressive Party for the 18th Presidential Election").

Although the details of the Respondent's unification plan is not logically and structurally complete, the plan can be viewed as conditioned on the co-existence of the two different systems of the South and the North in light of the reason why the Respondent proposes the federal unification plan. This is also true in view of the fact that the Democratic Labor Party that formalized a 'Federal Republic of Korea' for the first time advocated a "federal nation with two systems" (national vision as part of pledges for the 17th Presidential Election).

The Respondent argued in the present case that in view of the

significant disparity in the population size between the South and the North, it is unlikely that a unified constitution approving the North Korean system will be established through a general referendum. Also, the Democratic Labor Party divided the process of federalization into two phases and "devised a process with the one nation - one state – two system - two government phase and then the one nation - one state – one system - one government phase ("Unified Peace Regime," a policy report by the Policy Committee (headed by Lee ○-Dae) of the Democratic Labor Party in 2007). It also contended that "when the people choose one system after unification, based on how the respective society in the South and the North progresses and how the systems converge, Korea can be unified as a single republic with one state, one system and one government ("Report by the Strategy Committee for the Seizure of Power"). Considering these, the 'Korean Federation' can be viewed as an interim unified country in the process of unifying systems.

Meanwhile, what the Respondent envisions as an ultimate unified country is not indicated in the Korean federation unification plan. While the Democratic Labor Party in which the Respondent is rooted anticipates that "while going through the confederation and the South-North coalition phases, heterogeneity of the South and the North will be attenuated and homogeneity as one federation will grow, and the systems of the South and the North will converge together to form a mutually similar system," it also expressed a reserved stance regarding the system and form of the unified country, saying, "We cannot be sure of the form of the unified country at this time." ("Unified Peace Regime.") Regarding the system of the unified country, the Democratic Labor Party explains that "it will certainly be a system reflecting the political and economic progress of the South and the North through the confederation-coalition government phase," but "the competition between the two systems will continue even during the confederation-coalition phase," and "it will take a very long time for the South and the North to restore homogeneity in all aspects and reach the final phase of a

united country from the present level of inter-Korean exchange and cooperation," and "conservatively, it might take as much time as the duration of the existing division," and "the united phase cannot be seen as a pressing issue at the present moment." (*ibid.*)

In sum, it is hard to infer the ultimate unified country that the Respondent envisions from the Respondent's unification plan, and the society and system that the Respondent currently pursues will be the foundation of the unified country. Therefore, the question of whether the Respondent's unification plan is contrary to the basic democratic order becomes the question of whether the alternative society that the Respondent presently pursues is contrary to the basic democratic order.

d) Abolition of Anti-democratic, Bad Laws and Strengthening Democratic Control of Special Power Agencies

i) The Respondent urges the abolition of anti-democratic institutions and bad statutes, including the National Security Act, which it alleges is one of the typical examples of anti-democracy evil law, complete prohibition of invasion of privacy and illegal monitoring of citizens by special power agencies such as the National Intelligence Service and the Defense Security Command, and the strengthening of democratic control over such agencies (text of the platform).

ii) It is a historically proven fact that the former National Security Act has been misused or abused as a means of keeping government opponents in check and oppressing citizens' freedom of expression, taking advantage of the ambiguity and broadness of the wording. Also, scholars and civic society have been persistently voicing that the National Security Act helped authoritarian regimes to maintain power by oppressing political freedom and violating human rights or that some provisions excessively restrain freedom of thought or expression. There have also been a number of bills submitted to the National Assembly to

repeal the National Security Act.

Abroad, the United Nations Commission on Human Rights recommended the phased abolition of the National Security Act in 1992, and the immediate amendment of Article 7 of the National Security Act in 1999. Also, the Human Rights Reports issued by the United States Department of State pointed out problems in the Government's interpretation of the National Security Act several times.

In view of such facts, the Respondent's argument that the National Security Act is an anti-democracy bad statute and thus must be abolished is a mere advocacy of one of the positions on a political and social issue that has long been debated in Korean society.

Moreover, the political neutrality of agencies with investigation power or conducting intelligence activities, such as the National Intelligence Service, the prosecution and the police, and the respect for citizens' fundamental rights and control of power are one of the issues persistently raised by political circles. Challenges against alleged violations of laws by said agencies in conducting specific activities are also ongoing. What the Respondent argues does not seem to be much different from those efforts described above.

4) Sub-conclusion

Comprehensively reviewing the Respondent's platform and other related documents, the Respondent's declaration that it will "establish an autonomous, democratic government whose owners are the working people, and create a progressive, democratic society where the people command all aspects of social life, including politics, economy, society, and culture," can be viewed as an aspiration to overcome contradictions in Korean society with a focus on the interests of the classes and strata that constitute the people and realize substantial democracy. Also, the

details thereof are what have been selected and combined from various theories and policies advocated and established for decades by the so-called progressive political forces.

Those cannot be viewed as containing elements denying the sovereignty of a certain group or basic human rights, or further, sympathizing with North Korea's strategy for communized unification as the Petitioner argues.

(b) Platform of the Democratic Labor Party as the Basis of 'Progressive Democracy' of the Unified Progressive Party

Now, the implications of the progressive democracy advocated by the Respondent will be examined from the perspective of the purpose and history, based on the debates that took place regarding progressive democracy within the Democratic Labor Party as the forerunner of the Respondent.

1) Democratic Labor Party's Platform of June 2001: Whether There were Hidden Purposes in Amending the Platform

a) Background to Introduction of Progressive Democracy

i) It is hard to find a formal discussion or uniform argument concerning 'progressive democracy' in academic circles. Herbert Croly, an American political scientist, published a book titled "Progressive Democracy" in the early 20 century, and around that time, progressivism movements emerged in the United States as an attempt to eliminate various contradictions that accompanied the maturing of capitalism and to realize a more equal society. Yet, it is hard to say that this has established 'progressive democracy' as an internationally used official academic term.

ii) In Korea, the term 'progressive democracy' was used by a number of political figures particularly around the time of liberation from Japanese colonial rule.

Yeo ○-Hyeong, who formed the "Committee for Preparation of Korean Independence" with both rightists and leftists shortly after liberation from Japanese colonial rule, defined the committee as "an organization to build a new country restructured as a truly democratic regime of the nation, and a unified organization fully open to all classes and strata to unite all progressive and democratic forces." In the August *These* (as revised by the Central Committee of the Workers' Party of Korea on September 20, 1945) published at the time when the Soviet Union maintained the tactics to cooperate with the United States, Park ○-Yeong defined the United States and the Soviet Union as progressive democratic countries. Kim Il-Sung mentioned progressive democracy as the path that Korea must take, and as being true democracy, while giving a lecture under the theme "On Progressive Democracy" on October 3, 1945.

Such arguments had common grounds that they had been influenced by Marx-Leninism and perceived the contemporary situation as semi-feudal. Yet, progressive democracy was only briefly or abstractly mentioned, and was not further developed or established as a theory. Also, there was no consensus on how to build a progressive democratic society or what social system it ultimately pursues.

Academically, there are various views regarding 'progressive democracy' around the time of liberation from Japanese colonial rule. One is that (i) it was used to refer to democracy reflecting the situation of Korea at that time, and democracy in a bourgeois democratic revolution phase or an anti-imperialistic, anti-feudal democratic revolution phase. Another view is that (ii) it was democracy that denies bourgeois democracy like Western liberal democracy but does not pursue

proletarian democracy, and at the same time seeks to overcome limitations of liberal democracy and stage a social revolution by legal and peaceful means based on the consensus that the focus should be the working people or producing people, and was the spirit of the times representing the tasks facing the era, with some differences among various political forces.

Based on those opinions, 'progressive democracy' is a term widely used after liberation from Japanese rule, particularly in progressive camps. It is hard to say that such progressive democracy was already existent at the time as a specific political ideology or aim or what can be accepted only as a premise to pursue socialism.

This is also true, considering the cases where 'progressive democracy' was used or advocated by a number of political forces or commentators after liberation from Japanese colonial rule. The "Council for Promotion of Peaceful Unification in North Korea" (headed by Cho O-Ang) formed by abductees to North Korea in 1956 introduced the "construction of a progressive democratic society" as one of its seven main ideas for the platform.

Some of the contexts where the term 'progressive democracy' was used in columns and articles in newspapers in the past are as follows: 'Progressive democracy' was used as opposed to 'conservative democracy' (○○ *Shinmun* dated June 2, 1956); the newspaper commented that the new party (opposing the Liberal Party) must pursue 'progressive democratic party politics' (○○ *Ilbo* dated February 27, 1955); the newspaper referred to itself as a 'progressive democrat,' criticizing students' anti-liberal democratic, pro-communist slogans and theory of liberation (○○ *Ilbo* dated November 3, 1986); and the newspaper reported of the pro-democracy uprising in 1987, saying that "some policy-makers in Washington are trying to seize the opportunity to create a new progressive democracy with people's power" (summary

of an article of Asia Wall Street Journal quoted in ○○ *Ilbo* dated June 22, 1987). In these cases, 'progressive democracy' was used as a concept of democracy 'pursuing social changes and advancement,' rather than as an established political ideology.

iii) It is obvious that there was criticism or a perception of 'progressive democracy in the early post-liberation period' in numerous debates that took place before the Democratic Labor Party was able to introduce 'progressive democracy' to its platform.

However, the criticism within the party, such as that "the progressive democracy in the early post-liberation period is not worthy of succession," was focused on views that "it has a class-collaborative nature or is a compromise with American imperialism" or that "the prospect of the transition to socialism is unclear," contrary to what had been discussed around the time of liberation from Japanese colonial rule. Such criticism is not based on the premise that the Respondent directly succeeds to the progressive democracy of the early post-liberation period. Also, in light of Choi ○-Yeop's explanation about 'progressive democracy' at the time of amendment of the platform, progressive democracy does not seem to have accepted a particular view among various versions of progressive democracy advocated in the early post-liberation period.

iv) Based on the above, it cannot be said that 'progressive democracy' was already existent as a well-known established political ideology or aim in Korean society or academic circles, or that the Democratic Labor Party intended to accept entirely the 'progressive democracy' that had been advocated by a number of political forces in the early post-liberation period, even if the party was aware of and was more or less influenced by it.

v) The Petitioner argues that 'progressive democracy' advocated by the

Democratic Labor Party is 'Kim Il-Sung's progressive democracy' among versions of progressive democracy asserted in the early post-liberation period. However, no direct and objective evidence exists to prove that the Democratic Labor Party has accepted 'Kim Il-Sung's progressive democracy.'

① At a group meeting on May 8, 2013 attended by three persons, informant Lee ○-Yun, Hong ○-Seok, and Han ○-Gun, Hong ○-Seok argued that the Democratic Labor Party is 'Kim Il-Sung's progressive democracy' among versions of progressive democracy asserted in the early post-liberation period; however, Hong ○-Seok has never been directly involved in the Platform Amendment Committee, and his remark was made during private activities and constitutes a personal opinion. Even if this could be taken as reference for judgment and examined in detail, it is hard to say that progressive democracy obviously presupposes pursuit of North Korean-style socialism as the next target phase, as the Petitioner argues. According to Hong ○-Seok's comment at this meeting, Park ○-Soon, who authored "Progressive Democracy in the 21st Century," advocated 'autonomous progressive democracy,' and within the party, the substance of both autonomous democracy and progressive democracy was 'progressive society or freedom of thought,' and 'progressive democracy' was understood as the idea 'let's do democracy progressively,' and the 'substance' of progressive democracy is still being debated" and "has not been developed yet."

In conclusion, even if it can be found that Hong ○-Seok was aware of 'Kim Il-Sung's progressive democracy' and that those who Hong ○-Seok referred to as 'us' preferred the use of the term 'progressive democracy,' it cannot be said that there was any understanding or consensus within the party regarding the introduction of 'Kim Il-Sung's progressive democracy' as a precondition for the modeling of the whole world on the basis of the *Juche* ideology or a North Korean-style socialist revolution.

② Meanwhile, the Petitioner argues that the facts that a certain political group within the Respondent, to wit the Autonomy Faction, played a leading role in introducing progressive democracy and that phrases such as "overcome the fallacy of state socialism" and "overcome the rigidity of North Korean-style socialism" were deleted from the platform indicate that the Respondent has accepted Kim Il-Sung's progressive democracy to pursue North Korean-style socialism.

The debates that took place in the process of amending the platform of the Democratic Labor Party are as examined above, regarding the history of the Respondent. Based on this, the introduction of 'progressive democracy' to the platform and the deletion of the phrase "the succession to, and the development of, socialistic ideals and principles" appears to have been led by Choi ○-Yeop, Park ○-Soon, etc., who are classified as the Autonomy Faction within the party.

However, the following facts reveal that the Autonomy Faction did not always take the same stance in the debates for the amendment of the platform: At a forum held before the 2009 adoption of the declaration to pursue 'progressive democracy' at the Party Policy Convention, Park ○-Soon advocated 'autonomous democracy' and argued with Jeong ○-Hee, of the Autonomy Faction that urged for the "progressive change of government through solidarity coalition"; Jeong ○-Hee strongly criticized the adoption of a revised version declaring the pursuit of 'progressive democracy' instead of the original version proclaiming the pursuit of a 'new democracy' at this Party Policy Convention; and Lee ○-Dae who belonged to the Autonomy Faction opposed the amendment of the platform on the ground that "the timing is not right" at the time of the amendment of the platform in 2011. Also, not all non-Autonomy Factions opposed the introduction of 'progressive democracy' to the platform and the deletion of the phrase "the succession to, and the development of, socialistic ideals and principles" in the course of amending the platform. As revealed in the debates on the

values of

socialism, opinions were divided among non-Autonomy Factions as well. Considering this, along with the fact that the platform was amended based on the common opinion within the party and proper decision-making process, introduction of 'progressive democracy' cannot be viewed as a unilateral and arbitrary decision by the Autonomy Faction based on its unified political line.

Furthermore, as long as it is hard to find the Autonomy Faction's political line itself to be in pursuit of North Korean socialism, the finding that the introduction of 'progressive democracy' was led by the Autonomy Faction cannot be the ground to find that the Respondent has a hidden intent to pursue North Korean-style socialism. This will be examined in further detail in the review of section (c) subsequently.

Also, it is true that the Autonomy Faction stresses the basic line of autonomy, democracy and unification, but the pursuit of autonomy, democracy and unification is not the goal of the Autonomy Faction only or a task that can be valued only in a stance following the North.

The preamble to the Constitution provides, "We, the people of Korea.....upholding the cause of the Provisional Republic of Korea Government born of the March First Independence Movement of 1919 and the democratic ideals of the April Nineteenth Uprising of 1960 against injustice, having assumed the mission of democratic reform and peaceful unification of our homeland and having determined to consolidate national unity with justice, humanitarianism and brotherly love." While opinions may vary concerning which value is more important, it is natural to draw from the Constitution the missions to pursue autonomy as an independent sovereign country, democracy and peaceful unification. The Development of Inter-Korean Relations Act also provides that the development of inter-Korean relations shall be promoted, pursuing the co-prosperity of the two Koreas and peaceful unification on the Korean Peninsula, on the basis of the principles of

autonomy, peace and democracy (Article 2 (1)). The advocacy of 'autonomy, democracy and unification' and in particular autonomy and unification cannot be the ground to establish a direct logical or structural linkage with the pursuit of North Korean-style socialism.

Meanwhile, the reason why the founding platform of the Democratic Labor Party contained criticism of state socialism or North Korean-style socialism seems to prevent misunderstanding about the 'pursuit of socialistic ideals and principles,' and as long as the Respondent deleted the phrase about the pursuit of socialistic ideals and principles from its platform, there does not seem to be the necessity to add an explanation that it excludes a certain socialistic idea.

③ Besides, Choi ○-Yeop viewed progressive democracy as (a) the "first phase of socialism ("Evaluation of Ten Years of the Democratic Labor Party and Challenges"), and remarked at the time of amendment of the platform that (b) "everything is in it, except for the word communism."

However, the former (a) came when comparing the lines of the Autonomy Faction and the Equality Faction, thought to be the major factions within the Democratic Labor Party, and was an observation that while the Equality Faction wanted to make socialism or socialistic democracy the ideological alternative, the Autonomy Faction advocated socialism or progressive democracy, which is the first phase of socialism. This means that the pursuit of socialism was not an immediate goal. Also, Kim Il-Sung's progressive democracy was not the only one with socialistic orientation among versions of progressive democracy in the early post-liberation period. Based on this, the progressive democracy as the first phase of socialism mentioned by Choi ○-Yeop cannot be concluded to be Kim Il-Sung's progressive democracy as a pre-phase to pursuit of 'North Korean-style socialism.'

Also, with respect to the latter comment (b), Choi ○-Yeop contended that it was an explanation to the effect that "since the ideas of autonomy, equality and human liberation are in it, we can embrace socialistic ideals and principles." Such an argument is convincing in view of the fact that as the Chair of the Platform Amendment Committee, it was necessary for Choi ○-Yeop to appease the opponents of the deletion of the phrase about the pursuit of socialistic ideals and principles from the platform. It does not seem to be an attempt to conceal the intent to pursue a North Korean-style socialist revolution when introducing progressive democracy.

b) Amendment of the Platform Succeeding the Founding Platform

As examined in connection with the Respondent's history, the main features of the Democratic Labor Party's platform of June 2011, are that it deleted the phrase "overcome the fallacy of state socialism and limitations of social democracy and achieve the succession to, and the development of, socialistic ideals and principles that have been handed down from generation to generation in the history of mankind, to realize a new community of liberation, by embracing long-accumulated wisdom of mankind and outcomes of various progressive social movements" and instead added the phrase, "build a progressive democratic system."

However, it is hard to say that such an amendment of the platform was to ultimately abandon the "succession to, and development of, socialistic ideals and principles" by introducing a completely new idea, 'progressive democracy.' Based on the fact that there was considerable objection to the deletion of the phrase about 'socialistic ideals and principles' in amending the platform, and the comment of Choi ○-Yeop, the then Chair of the Platform Amendment Committee, the amendment of the platform at the time does not appear to be a complete abandonment of socialistic ideals and principles.

Also, in view of the fact that a substantial part of the policies and specific goals that seem to be based on the socialistic ideals and principles pursued by the Democratic Labor Party remained in the amended platform under the name of 'progressive democracy,' the amendment of the platform by the Democratic Labor Party cannot be viewed as an attempt to detach itself from socialism.

The amended platform still reflects socialistic ideals and principles like the founding platform, by providing that "it will build a human community where justice and peace overflow, by playing a leading role in an international alliance against globalized capital with the labor class, exploited people, oppressed nations in the world"; "diversify the ownership structure of production means, by, among others, nationalization of key industries," to "establish a democratic economic system that guarantees autonomous economic development to overcome the evils of capitalism and people's self-reliant participation"; "solve low wage issues and guarantee living wages and eliminate all kinds of discrimination for a society where labor is respected"; and "establish a welfare community through an extensive alliance of the people to realize values of social justice and equality."

After all, 'progressive democracy' can be viewed as falling within the spectrum of various forms of socialistic ideas covered by socialistic ideals and principles, and Choi ○-Yeop's comment to the effect that the Autonomy Faction within the party considered 'progressive democracy' as the first phase of socialism can be understood in the same context.

This is also ascertained by the argument of Kim ○-Min who participated in the Platform Amendment Committee as a member of a task force. Kim ○-Min wrote on the website of the Progressive Workers' Association, after 'progressive democracy' was introduced to the platform, that the platform did not clearly state the historical background and concept of progressive democracy and contended as

follows: The progressive democracy of the Democratic Labor Party should inherit the tradition of Yeon Hyeon's progressive democracy, Cho Am's social democracy, and people's democracy of the People's Party; while the opinion that progressive democracy has nothing to do with, or is on the opposite side of socialism is inappropriate in that progressive democracy is historically a socialistic platform with a clear orientation toward socialism, and socialism from the perspective of a progressive popular political party cannot be the same as that of a socialist party; the socialism assumed by progressive democracy is not the socialism during the cold war between the United States and the Soviet Union, and must be open to various perspectives concerning the path to socialism according to changing political, economic and social conditions and international situations; and therefore the reasonable level would be to say that we ultimately pursue socialistic ideals and values ("How to Look at Progressive Democracy").

Considering that the Respondent also views progressive democracy as being located between social democracy and socialism along the political spectrum ("20 Questions and 20 Answers about the Platform of the Unified Progressive Party"), the Respondent itself acknowledges that progressive democracy is based on socialism in a broad sense or socialistic ideals and principles.

In its argument in the present case, the Respondent contended several times that progressive democracy did not pursue socialism. However, this appears to mean that progressive democracy is not an interim notion as a means of pursuing socialism, and cannot be viewed as a denial of socialistic ideals or values in progressive democracy or an attempt to completely exclude its orientation toward socialism.

2) Democratic Labor Party's Line and Strategy for Seizing Power

a) Autonomous Democratic Government by the People based on

Progressive Democracy

i) The Democratic Labor Party's line for seizing power manifested through the amendment of the platform in June 2011 can be viewed as an "autonomous democratic government by the people based on progressive democracy."

In May 2007, a survey conducted among Central Committee members and representatives of the Democratic Labor Party by the Strategy Committee for the Seizure of Power revealed that the Central Committee members and the representatives who favored "overcoming capitalism and pursuing socialism" as the Democratic Labor Party's goal for seizing power were 75 percent and 67 percent, respectively, while those who favored "overthrowing capitalism and accomplishing socialistic goals" were only 13 percent and 17 percent, respectively. Such results confirmed the general orientation toward socialism within the Democratic Labor Party ("Report by the Strategy Committee for the Seizure of Power"). It shows that the line of strategy for seizing power was concretized toward a new socialistic orientation, instead of traditional socialism itself, under the name of 'progressive democracy,' by reflecting such outcome.

The Democratic Labor Party contended that progressive democracy embraced the positive aspects of social democracy and also implied the task of overcoming its limits. It also saw that the people's regime pursued by progressive democracy was a government with characteristics of a united front based on extensive people's political struggles, which denied a regime of the capitalist class but did not exclude participation of any particular classes. ("Report by the Strategy Committee for the Seizure of Power.")

The substance of such arguments can be viewed as almost the same as

what has been examined in connection with the Respondent's platform, and as revealing its orientation toward socialism in a broad sense and toward a class (coalition) political party.

Meanwhile, the Democratic Labor Party argued, "Progressive democracy aims for the second pro-democracy movement. Bad statutes that are anti-democratic and against human rights must be abolished. We should instigate a nationwide uprising like the June Democratic Uprising, by simultaneously staging mass struggles for people's livelihood and the realization of democracy led by the front for struggles for the right of autonomy. For this, a body of solidarity coalition of wide-ranging mass organizations should be established and developed with progressive popular political parties at its center." ("Report by the Strategy Committee for the Seizure of Power.") Such argument can be said to be in line with the Respondent's perception of limitations of the 1987 System or the pursuit of the abolition of anti-democratic bad statutes, including the National Security Act.

ii) The Petitioner links the Democratic Labor Party's progressive democracy with North Korean-style socialism, but evidence does not suffice to prove that the North Korea case was directly studied as a new model of socialism in the course of amending the platform or during discussions at the Strategy Committee for the Seizure of Power.

While studying the Venezuela case at the 11th meeting of the Strategy Committee for the Seizure Power on July 13, 2007, Choi ○-Yeop mentioned, "There are many similarities between the North's socialist revolution and Venezuela's socialist revolution, and I think comparing them might be helpful" (minutes of meeting annexed to the Report by the Strategy Committee for the Seizure of Power).

However, the comment was made at the meeting after mentioning the characteristics of Venezuela's socialist revolution, such as the fact that

the revolution was staged through direct democracy without undergoing a proletarian dictatorship or people's democratic revolution, that study at the Bolivarian Circle was emphasized, that production means for public service was nationalized not through confiscation but through purchase at market prices, and adopting an administration system through residents' autonomy committees. Therefore, the comment cannot be viewed as evidence that proves the pursuit of North Korean-style socialism.

In view of Choi ○-Yeop's article ("Current State and Prospects of the Bolivarian Revolution in Venezuela") contributed to "Progressive Politics," the official journal of the Democratic Labor Party, around the time when the above-referenced comment was made, it is reasonable to consider the comparison with North Korea as being in the context that "the particularities of the South American revolution inherently impose a task of revolution for national liberation" and that it was "the first phase in a socialist revolution" based on Marxism.

Rather, Choi ○-Yeop seems to have accepted the Venezuela case as a new model of socialism in that the revolution was staged strictly based on participatory democracy, unlike the bureaucratic socialism of the Soviet Union, and that it urged completion of socialism, while guaranteeing popular elections and freedom of political parties and "without the dictatorship of people's democracy," unlike socialist nations in the 20th century ("Current State and Prospects of the Bolivarian Revolution in Venezuela").

This is related to the fact that the Democratic Labor Party accepted South American cases as important models at the time of its foundation. According to the testimony of Kwon ○-Gil who played a leading role in creating People's Victory 21 and the Democratic Labor Party, the Workers' Party (PT) in Brazil was an important model for the formation of the Democratic Labor Party. Since 1995, the Korean Confederation of Trade Unions, the Unified Workers' Central (CUT) in Brazil and the

Congress of South African Trade Unions (COSATU) in South Africa have been conducting joint activities for international solidarity among democratic trade union movement camps. Also, after COSATU's support for the African National Congress (ANC) and CUT's support for the PT produced great outcomes, the KCTU and People's Victory 21 visited Brazil twice.

Also, it is reasonable to view the 'progressive democracy' of the Democratic Labor Party as having been significantly influenced by South American models, considering that: the Democratic Labor Party officially dispatched a study team in response to an invitation of the ruling party of Venezuela in January 2007; ○○ Research Institute, the policy research institute of the Democratic Labor Party, published research on the process of seizing power by the PT of Brazil in June 2009; the 2009 Report by the Strategy Committee for the Seizure of Power examined, as important cases, ANC and PT that successfully had Nelson Mandela and Luiz Inacio Lula da Silva elected president, respectively, and became the ruling party, along with the cases of Venezuela and Chile; and "Progressive Democracy in the 21st Century," published at the time of amendment of the platform in June 2011, also mentioned the Venezuela case.

b) Strategy for and Method of Seizing Power

The methods of seizing power proposed by the Democratic Labor Party are mainly "victory in elections driven by mass struggles" and "integrative strategy for inside and outside of the National Assembly" ("Report by the Strategy Committee for the Seizure of Power").

i) First of all, the Democratic Labor Party seeks "victory in elections driven by mass struggles." Its general strategy for seizing power is to become the majority party through General Elections and it also expects it to be possible to seize power by winning a presidential election in

light of the characteristics of the presidential system. It envisions victory in general and presidential elections driven by mass struggles. In addition, it approves seizure of power through exercise of the right of resistance under exceptional circumstances, and this is also part of the strategy for seizing power through victory in elections.

While the Constitution does not expressly specify the right of resistance, the right of resistance is citizens' right to resist state power by force to defend their right and freedom, when basic principles under the Constitution are materially violated by state power and the violation constitutes denial of the very existence of the Constitution, and there is no other lawful remedy (Constitutional Court, Case No. 97Hun-Ka4, Sep. 25, 1997), and a right that naturally derives from the essence and role of a state prescribed by the Constitution and the fundamental rights guaranteed thereunder.

The exercise of the right of resistance that the Democratic Labor Party approves under exceptional circumstances presupposes a situation where the constitutional order is materially threatened or violated. To such an extent, it is not fundamentally different from the generally accepted notion of the right of resistance. However, the Democratic Labor Party specifies the right of resistance as a method of seizing power. Although it is secondary and an exceptional mean, such an element is somewhat contradictory to the defensive nature of the right of resistance.

Regarding this problem, the Democratic Labor Party argued, "An all-people uprising stresses the right of resistance from the perspective of mass struggles. Although an all-people uprising begins as a protest based on a civil disobedience movement, depending on the legitimacy of the state power, the degree of oppression and the sacrifices caused thereby, it could develop into the right of resistance and the right of revolution to remove the illegitimate power and create a new one." Such an argument can be understood as emphasizing the protests and struggles against the

illegitimate exercise of state power and that those could lead to the exercise of the right of resistance, depending on circumstances.

It is not an argument that all mass struggles should be developed into the exercise of the right of resistance or revolution, nor is it an attempt to justify any use of violence under any circumstances. Such a stance becomes clearer by looking at the cases cited by the Democratic Labor Party. The Democratic Labor Party recognized the April Democratic Uprising and the Gwangju Democratization Movement as cases where the right of resistance are being exercised, and observed that the right of resistance could be exercised, in a situation like the massive farmers' struggle at the end of 2005, "when murderous oppression to block assembly, protests, strikes and the right to press guaranteed under the Constitution recurs and there is no legal means available to stop such oppressions." The party also contended, "While violent clashes might occur sporadically, the method of exercising the right of resistance is basically limited to large-scale peaceful demonstrations and marches with hundreds of thousands or more participants. Use of force cannot win support from the public, unless there is ruthless oppression by government authorities compelling the sacrifice of citizens." This is far from arguing that the exercise of the right of resistance means the use of violence or that it is inevitably accompanied by violence.

Therefore, interpreting the Democratic Labor Party's arguments above as inciting mass struggles or all-people uprisings or violence to trigger exercise of the right of resistance with an intent to abrogate or subvert the constitutional order exceeds the limit of interpretation.

Citing the fact that Park ○-Soon mentioned 'armed struggles' and 'all-people uprisings' as part of the strategy for people's seizure of power in an article ("Strategies for 21st Century Progressive Movements to Counter Neo-liberal Globalization") attached to a thesis statement at the "forum on the nature of Korean society and revolutionary strategies"

in October 2007, the Petitioner contends that the Democratic Labor Party has accepted the theory of violent revolution.

However, as mentioned earlier, Park ○-Soon's remarks cannot be equated with the views of the Democratic Labor Party in light of her position at the time. Moreover, Park ○-Soon testified to the effect that, "In the past, the expression 'all-people uprising' meant that the people rose up to realize reform because seizure of power through an election was considered impossible. Originally, an all-people uprising means an armed uprising, but the model perceived by progressive camps is like the April Democratic Uprising or the June Democratic Uprising. Most people already think armed attempts are impossible in Korean society, and today nobody suggests staging an armed revolution."

Korea has witnessed the end of the authoritarian regime since the establishment of the 1987 system, criminal punishment of military dictators, peaceful change of political power, and advance of the Democratic Labor Party to the National Assembly as a progressive party. Through such historical experiences, ordinary citizens who live in this era would reject any argument that the use of violence is necessary or acceptable to resolve national or social contradictions and conflicts. Also, no reform would be possible without the awareness and support of the public. In this regard, the shift of perception as seen in Park ○-Soon's testimony is completely understandable.

Meanwhile, the fact that the Democratic Labor Party mentioned the right of resistance as a means of seizing power can be viewed as a preparation in case the right of resistance is legitimately exercised and under such circumstances the Respondent could seize power by playing a leading role when the old government or regime threatening the constitutional order is overthrown and a new government is to be established. The Democratic Labor Party believes that "when a 'nationwide coalition government' is established through successful

exercise of the right of resistance, the progressive party could participate in it as a leading player" and "when the nationwide coalition government of an emergency government nature is approved by a general referendum, the party can seize power lawfully." This indicates that the party ultimately pursues seizure of power through an election.

ii) The integrative strategy for inside and outside of the National Assembly advocated by the Democratic Labor Party is to strengthen unity with mass organizations and mass movements, strengthen alliance with civic organizations, build networks with expert groups, accumulate capacities by seizing power in municipalities, and promote international alliance.

Among those, unity with mass organizations and mass movements is to organize the people, including laborers, farmers and the poor, win exclusive supporters based on the outcomes thereof, and raise the approval rating of the party on the basis of legislative activities combined with mass struggles to ultimately win an election.

The Democratic Labor Party urged the establishment of a body of people's fronts to organize people's power. It contends that the body of people's fronts will start as a case-by-case solidarity to meet the needs of the public and grow into a permanent body for joint struggles, and unlike a party, the body of fronts will stage struggles both legally and illegally. This seems to be merely pointing out that students', farmer's and civic society's movements, carried out outside of the National Assembly, have a tendency toward illegal struggles, and the argument that the Democratic Labor Party must lead and participate in organization and creation of a body of people's fronts cannot be viewed as urging active participations or a leading role in illegal struggles.

Also, the scope of 'illegal' struggles mentioned here is rather broad and undefined. Even if the Democratic Labor Party is deemed to have

approved illegal struggles, this cannot be seen as approving arbitrary and violent rule, by entirely denying positive law or pursuing an extreme, violent revolution.

Meanwhile, political parties mold citizen's amorphous, granular opinions, interests, etc., into types of 'political will,' and by becoming the ruling or opposition party through an election, play key roles in collective decision-making, such as the government's policy-making or review in the legislature. However, there is a substantial limit for a minor party with a few seats in the National Assembly, like the Democratic Labor Party to participate in collective decision-making through activities within the National Assembly only.

Moreover, while a political party based on party-due-paying members, like the Democratic Labor Party, can be effective in ensuring a democratic system within the party in terms of the bottom-up participation of 'party members,' the reflection of opinions of supporters and voters who are not party members is likely to be highly limited. Therefore, emphasizing mass struggles as part of activities outside the National Assembly in publicizing and implementing the political views and policies that the Democratic Labor Party pursues should be viewed as a strategic choice that falls within political parties' freedom of activities.

Besides, the Petitioner argues that the Democratic Labor Party's integrative strategy for inside and outside of the National Assembly, such as the emphasis on mass struggles and advocacy of creation of a permanent solidarity mechanism, corresponds to the united front tactics and strategy, which is the solidarity coalition strategy mainly targeting the US and the privileged few and the essential means of the North's strategy for revolution in the South.

Generally speaking, a united front means a common front, to wit a

form or structure for joint struggles, created for the purpose of fighting against a common enemy for common goals by multiple classes and strata, and political parties and organizations representing their class interests, despite differences in the class interests, and political or world views, etc. Yet, uniting those on the same side, while isolating opponents and soliciting centrists, is the basics of ordinary strategies and tactics, a united front cannot be viewed as inherently linked to a particular ideology. An idea that a group can form an alliance or unite with another group that has conflicting interests or is hostile in order to accomplish a certain ultimate goal is a universal phenomenon in political groups and social movement forces at large.

Also, it is true that the term 'united front' has an important status in the North's strategy for revolution in the South and is unfamiliar to and rarely used by ordinary people, but the so-called progressive camps tend to use demagogic and militant terminology obtained from experiences in pro-democracy movements or students' movements in the past or foreign (or translated) terminology adopted when importing foreign theories, and so does the North. Therefore, similarities in terminology cannot be a decisive criterion for determining whether the Respondent is making the same argument as the North.

Furthermore, the Democratic Labor Party's idea of mass struggles was not originally proposed by the Autonomy Faction, which appears to be the current mainstream of the Respondent. It has been proposed by a number of factions, including the Equality Faction within the party, and can be understood as a way of overcoming limitations as a minor party, irrespective of the alleged North-following disposition.

c) Interim Conclusion

The Democratic Labor Party's platform amended in June 2011 is actually an extension of the founding platform that pledged to establish

an autonomous democratic government by laborers and the people, overcome the ordeals of capitalism, and build a democratic socio-economic system oriented toward laborers and the people.

However, the platform amended in June 2011 did not expressly specify its orientation toward direct socialism and somewhat lowered the level of orientation toward socialism. To wit, while the founding platform declared directly its orientation toward direct socialism to "completely abrogate all state organs, laws and institutions oppressing the people," "restrict private ownership for profit-making, and socialize production means," "ensure that producing people, including laborers, democratically possess production means and participate in planning, production, distribution and circulation," and "realize a new liberalized community through the succession to, and the development of, socialistic ideals and principles," the platform amended in June 2011 relaxed it radically by proclaiming that it would "abolish anti-democratic institutions and various evil statutes, disband oppressive organs, pursue the fundamental reform of the state and society," and "diversify the ownership structure of production means through the nationalization of key industries, and establish an economy oriented toward people's livelihood through economic policies with priority on people's right to life." This could be seen as a kind of political decision made in an effort to further reflect the changes in the circumstances after its successful entry into the National Assembly in 2004 and in social conditions in its strategy for seizing power through elections, as a popular political party based on the solidarity and coalition of various classes and strata.

After all, the details of the Democratic Labor Party's platform amended in June 2011 or the idea of 'progressive democracy' in which it is embraced have actually succeeded the founding platform, and can be viewed as socialism in a broad sense. However, they do not include the concepts or elements generally perceived to be contrary to the basic

democratic order, such as violent revolution, depriving a certain class or stratum of sovereign rights or fundamental rights (class dictatorship) and one-party (one-person) dictatorship. Thus, it is hard to say that 'progressive democracy' was introduced as a precondition to realize people's sovereignty, restrict private ownership of production means and take away freedom of economic activities, and pursue one-party dictatorship centered on the Leader as implied in 'North Korean-style socialism,' which is the main issue raised by the Petitioner in the present case.

This is also supported by the fact that no particular objection was raised at the meeting held after the foundation of the Respondent to finalize the draft amendment of the platform expressly specifying the construction of a 'progressive democratic society,' as examined above in connection with the Respondent's history; and Roh ○-Chan's testimony to the effect that the objection to progressive democracy within the Democratic Labor Party was the criticism of class collaboration or a rightward shift (deletion of socialism), and the adoption of progressive democracy was not subjected to a particular issue in the process of founding the Respondent, and the platform was amended upon agreement reached by the three founding entities of the party.

(c) Whether the Respondent Aims at Overthrowing the System of the Republic of Korea

Since the Petitioner argues that the Respondent's hidden or genuine objectives are to pursue a North Korean system and overthrow the system of the Republic of Korea, whether or not the Respondent has such objectives will be examined.

1) The North Korean System and the North's Strategy for Revolution in the South and its Unification Policy

a) There are various views in defining North Korea's system, such as 'totalitarianism,' 'Great Leader socialism,' 'modified state socialism,' 'sultanate system,' and 'party-state system.' However, most views recognize the presence of the '*Juche* ideology,' an exclusive ideology, as the main characteristic of the North Korean system.

In North Korea, the '*Juche* ideology' or 'Kim Il-Sungism-Kim Jong-Ilism' serves as the criteria for judgment and interpretation of all political actions and social realities, and it is virtually impossible for any opponents to exist. People's social participation is controlled by the state, and the people are organized and mobilized through surveillance, violence and terror. In particular, the Great Leader leadership theory, which constitutes the core element of the '*Juche* ideology' is used to justify and maintain the hereditary dictatorship. There is no doubt that such a system is fundamentally contrary to the basic democratic order.

North Korea claims that "Great Premier Kim Il-Sung opened a new age of '*Juche* by creating the immortal '*Juche* ideology"; "the leader, the party and the masses are not a simple unified entity but one socio-political organism," and the center of the socio-political organism is the leader, who is the top brain; the socio-political organism should be combined with revolutionary loyalty and comradeship to be united by blood relationship; and the vanguard party of the working class should be a 'chaste political organization' with the leader's ideas as its guiding ideology and with a firmly guaranteed leader's monolithic leadership. So the North emphasizes that the people should clearly recognize the leader as the center of the socio-political organism, not merely as the supreme leader; should live by the motto that no one can survive as an autonomous being with a socio-political life, without uniting around the leader; should trust and follow the leader as the pillar in their mind; and should be committed to the leadership ideology, to fight according to the ideas and guidance of the leader without fearing anything.

The Great Leader theory completely denies the basic democratic order in that it denies profound understanding of the human nature that forms the basis of democracy, to wit the awareness that all human beings can commit wrongs, are imperfect and biased, and nobody can know the perfect truth and that it does not simply emphasize leaders' virtues or submission to democratic decision-making but defies the leader and justifies dictatorship.

b) As a way to bring North Korean-style socialism to the entire Korean Peninsula, the North has been pursuing a certain strategy for revolution in the South.

In the past, North Korea argued that a 'national liberation people's democratic revolution' is necessary in South Korea, since South Korea was a colony of the United States, and the South Korean government was the proxy regime of the United States or a pro-American fascist regime. To wit, it argued that 'national liberation' must be realized to expel American imperialism from South Korea and 'people's democracy' to overthrow the South Korean government, which was the proxy regime of the United States and a dictatorship. It also contended that the revolution would set the *Juche* ideology as its guiding ideology, and would be driven by wide-ranging classes and strata guided by the working class, and staged through revolutionary violence and all-people uprisings. Moreover, North Korea expected that after the National Liberation and People's Democracy Revolution was completed and an autonomous democratic government was established in South Korea, a socialist and communist country would be built through a socialist revolution with the *Juche* ideology as its guiding ideology and to realize the autonomy of the people, and in doing so, the South and the North would form a complete unified country through a federation phase with one nation, one state, two governments and two systems.

According to the 'National Liberation and People's Democracy

Revolution' theory propagated through North's Pyongyang Broadcasting System and broadcasting toward the South in the 1990s and "*Juche's* Theory on Social Revolutionary Movements in Korea," a guidebook concerning the North's strategy for revolution in the South widely spread in the 2000s through the "National Salvation Front," a website operated by the North, the overall framework of the North's strategy for revolution in the South remains the same, with some modifications, regarding the nature of Korean society and the methods and means of revolution.

However, some scholars and government officials, etc., involved in North Korean affairs, contend that North Korea's strategy for revolution in the South have substantially changed, with the ever-widening economic gap between the South and the North and the North's isolation after the fall of the Soviet Union and Eastern Europe in the 1990s. They allege that North Korea is aware that its strategy for revolution in the South is not feasible in reality and thus has abandoned the 'policy of one Korea.' They further contend that facts such as the simultaneous admission of the South and the North to the United Nations in 1991, Kim Il-Sung's proposal for unification under a 'federation with two governments and two systems', the Inter-Korean Basic Agreement that specifies mutual respect for each other's system and non-intervention in domestic affairs, and deletion of the phase 'unification at a national level' at the time of the amendment of North Korea's socialist constitution in 1992 demonstrate the North's defensive position, and maintaining the integrity of the regime has become the most pressing concern for North Korea.

While such arguments undoubtedly reflect the actual difference in power between the South and the North, the Rules of the Workers' Party of Korea still define "building a strong and prosperous socialist nation in the northern part of the republic and implementing the task of the National Liberation and People's Democracy Revolution at a national

level" as its immediate goals. In light of such reality, it is hard to conclude that the North has completely abandoned the strategy for revolution in the South.

2) Whether the North-following Group Dominates the Democratic Labor Party and the Unified Progressive Party

The Petitioner argues that a North-following group within the Democratic Labor Party existed, and that it had gradually taken hold of party hegemony and ousted their opponents, and that it dominated the Democratic Labor Party and currently constitutes the Respondent.

a) Autonomy Faction and Equality Faction as Major Factions within the Democratic Labor Party

Although no evidence suggests that the Autonomy Faction and the Equality Faction had their own unified organizations as independent political entities, recurring classification of factions in a number of comments, writings, etc., by many members of the Democratic Labor Party suggest at least that they formed respective factions within the Democratic Labor Party.

For instance, Choi ○-Yeop analyzed the difference in the 'line' between the Equality Faction and the Autonomy Faction within the Democratic Labor Party in "Evaluation of Ten Years of the Democratic Labor Party and Challenges" as follows:

(i) The Equality Faction neglects subordination to the United States, while the Autonomy Faction strongly acknowledges it; (ii) the Equality Faction aims for a party of the working class, while the Autonomy Faction aims for a class coalition party led by laborers; (iii) the Equality Faction pursues socialism or social democracy, while the Autonomy Faction pursues progressive democracy as the

first phase of socialism or socialism, but opinions differ even within a faction; (iv) the Equality Faction is passive about an alliance or united front with the Democratic Party, while the Autonomy Faction is active; (v) the Equality Faction is passive about engagement in unification issues, while the Autonomy Faction is active; (vi) the Equality Faction opposes the "against-America-and-with-North" stance, while the Autonomy Faction advocates it to prevent war and accomplish autonomous unification; (vii) the Equality Faction criticizes human rights issues in North Korea, while the Autonomy Faction considers them as the North's domestic issues; (viii) the Equality Faction demands ideological homogeneity (socialism) in regard to progressive alliance, while the Autonomy Faction considers it acceptable, if there is consent to autonomy, equality and progressiveness; (ix) the Equality Faction emphasizes the party's operations focused on policies, while the Autonomy Faction emphasizes consolidation of struggles through elections with mass struggles, giving priority to mass struggles; and (x) the Equality Faction is active in disclosing factions, through, among others, the faction list system, while the Autonomy Faction is passive.

However, the line of the Autonomy Faction as it appears on the surface examined above stresses the elimination of national contradictions and views national unification as a must, and accordingly gives priority to autonomy and unification. It sees the North as a counterparty for cooperation in an effort to prevent war and achieve unification, and thus recognizes the system of, and stresses cooperation with, the North. Such stance cannot be the ground to find North Korean-style socialism based on the *Juche* ideology to be the basis of the Autonomy Faction.

This is also ascertained by discussions that took place over North Korean issues, regarding which the conflicting opinions between the Autonomy Faction and the Equality Faction were most evident.

First of all, with regard to discussions of a unification plan, the idea of the 'Federal Republic of Korea' took concrete shape as part of a national vision proposed by Kwon ○-Gil after being elected as the presidential candidate of the Democratic Labor Party for the 17th Presidential Election with support from the Autonomy Faction, and some party members classified as the Equality Faction, such as Cho ○-Su, objected. However, as examined above, the federal unification plan itself was what was recognized as one of the unification formulas even under the founding platform of the Democratic Labor Party. Also, in the course of the primary for the Democratic Labor Party's selection of candidates for the 17th Presidential Election, there seem to have been a certain consensus among the candidates regarding the federal unification plan.

During the primary, with regard to unification policies, Kwon ○-Gil proposed a 'Federal Republic of Korea,' while Roh ○-Chan advocated a vision for 'P+1 Korea,' to wit the creation of a single state through the Korean confederation and federation phases, and Sim ○-Jung presented a scheme for "peace and economy on the Korean Peninsula." The unification plans proposed by Kwon ○-Gil and Roh ○-Chan seem to imply a federation, while Sim ○-Jung did not particularly mention it. The "Progressive Politics," the official journal of the party, reported on the debate among the three candidates that Sim ○-Jung and Kwon ○-Gil argued that the idea of the 'Confederation of Korea' proposed by Roh ○-Chan was contrary to the party's platform. Considering the above facts, the federal unification plan at the time cannot be viewed as the stance of the Autonomy Faction only, nor as accepting the North's strategy for revolution in the South or the unification policy, simply on the grounds of the partial similarity in the name with the North's 'Federal Republic of Koryo' or in substance. Also, as examined earlier, the pledge for a Federal Republic of Korea is not found to be the pursuit of unification under the North Korean-style socialist system.

Next, the Democratic Labor Party's stance on North Korea's nuclear

tests has already been examined earlier in connection with the Respondent's history of internal conflicts among the party factions regarding this issue.

While other political groups inside and outside the Democratic Labor Party condemned or opposed the North's nuclear tests, the Autonomy Faction saw North Korea's possession of nuclear weapons from the viewpoint of the right of self-defense, and placed the focus on the United States' threat against North Korea or merely expressed regrets. In this regard, the Autonomy Faction is found to have been displaying a passive tendency in responding to North Korea's nuclear tests.

However, this cannot constitute grounds to find that the Autonomy Faction advocates the appropriateness of North Korea's possession of nuclear weapons or North Korea's nuclear threats, opposes the denuclearization of the Korean Peninsula, or otherwise demonstrates an unconditional following of North Korea. It is not impossible to analyze from the point of view of self-defense (from US' threat) in opposing North Korea's possession of nuclear weapons and demanding North Korea's nuclear dismantlement.

For example, the "Perry Report" issued in 1999 on the United States' process of approaching North Korea anticipated that it would be hard for North Korea to resist the temptation to develop weapons of mass destruction, as long as the US maintained hostility toward North Korea, and North Korea felt intimidated by it. Concerning North Korea's possible abandonment of nuclear weapons and solutions to nuclear issues, Donald Gregg, a former United States Ambassador to the Republic of Korea, commented to the effect that: "From the North's point of view, nuclear weapons are means of security that allows it to defend itself until the North-US and inter-Korean relations improve and North Korea's economy gets better. It is deterrence for self-defense." Moreover, former Ministers of Unification in Korea also commented on

the North Korean nuclear issues to the effect that "North Korea conducted nuclear tests because of the Bush Administration's North Korean policies" and "in order to remove North Korea's threats of nuclear weapons and long-distance missiles, the United States must remove threats that North Korea views as national security threats." It is hard to find a fundamental difference between those remarks and the stance of the Autonomy Faction reviewed above.

Besides, when the Democratic Labor Party visited North Korea in November 2006, at a talk with Kim ○-Dae, Chair of the Central Committee of North Korea's Korean Social Democratic Party, then party leader Mun ○-Hyun, Kwon ○-Gil and Roh ○-Chan, etc., emphasized the principle of a nuclear-free Korean Peninsula and expressed regret over North's nuclear tests. Also, when some pointed out that the Democratic Labor Party's response to North Korea's nuclear issues was insufficient or inadequate, around the time of the First Split of the party, Choi ○-Yeop emphasized in a media interview, "The platform of the Democratic Labor Party is for denuclearization, and it is the party's stance that the North should not possess nuclear weapons, and when the party visited the North, it expressed regret, and it has never been the party's official position to justify the North's nuclear test." Comprehensively reviewing all of these facts, the Autonomy Faction's stance toward North Korea's nuclear issues cannot be viewed as stemming from its unconditional following of North Korea, beyond a simple pro-North tendency.

Meanwhile, as examined above in connection with the Respondent's history, while party officials from the Autonomy Faction expressed modest criticism or mere regrets over North Korea's armed provocations, they strongly criticized the Government for its hostile policies against North Korea. Also, regarding human rights issues in North Korea or the three-generation power succession, it has been taking a reserved and passive stance, without expressing clear opinions on the ground that they

involved North Korea's internal matters, or that relevant facts had not been confirmed.

The position of the Democratic Labor Party's Autonomy Faction concerning human rights issues in North Korea or the three-generation power succession remains somewhat unacceptable both in terms of the ideological aspect of 'progressiveness' that requires the party to stress substantial democracy more than anyone else and lead efforts to guarantee fundamental rights ensuring individuals' freedom, as well as in terms of the obligation of a 'political party' that aspires to seize power by participating in the formation of, and uniting, citizens' political will. However, recognizing the importance of the task of peaceful unification under the Constitution and respecting the status of North Korea as a counterparty for unification are not incompatible with the prevalent criticism of the current system of North Korea. Also, what citizens expect from progressive political forces would not be raw criticism of the current leader of North Korea or support for unconditional pressure or sanctions against North Korea. What they expect from the forces claiming to be the proponents of progressive politics would be the principles that conform to the values of progressiveness that they advocate and the sincerity in consistently upholding the principles.

However, in general, reserved criticism or inaction cannot be interpreted as an act of approving, sympathizing with or following it. Also, in light of the frequency or level of the remarks by the members of the Democratic Labor Party from the Autonomy Faction, their silence or passive stance toward North Korean issues cannot be viewed as stemming from their commitment to show no criticism against the target of their faith.

Furthermore, North Korea has been maintaining a rare radical diplomacy in the international community, without fearing isolation. Considering this, the Autonomy Faction's argument that irritating North

Korea might result in the cessation of dialogue or escalated tension should not be seen as a mere pretext to hide its North Korea-following tendency. Some in the academic circles interpret such a stance as an attempt to implement the principle of mutual non-intervention in domestic affairs between South and North Korea under Section 2 of the October 4th Declaration.

To wit, even if the policy or stance of the Democratic Labor Party's Autonomy Faction could be seen as somewhat remote from the position of the majority in this society, it is hard to conclude that this is based on a blind North-following tendency.

b) Whether the North-following Group Dominate the Democratic Labor Party and the Respondent

i) As reviewed above in connection with the Respondent's history, after the formation of the Democratic Labor Party, the Autonomy Faction grew within the Democratic Labor Party with the participation of the National Alliance, and candidates from or friendly to the Autonomy Faction came to dominate posts for party officials through elections, as argued by the Petitioner.

However, it is hard to say that all members identified as the Autonomy Faction within the party pursued the *Juche* ideology and took a North-following line in a sense that they followed the North, beyond a mere pro-North tendency; this was the cause of the split of the Democratic Labor Party; and as a result of the split, the Democratic Labor Party became the party of the Autonomy Faction.

At the time of the split, there were growing conflicts among factions that had existed since the formation of the Democratic Labor Party, and debates on the responsibility for the defeat in the 17th Presidential Election, and the issue of the possible split of the party raised by the

Equality Faction had already surfaced. In view of this, the fact that the motion to expel the members involved in the *Ilshimhoe* case was voted down, which triggered the split of the party, seems to have been affected by the so-called hegemonism over the leadership of the party.

Of course, the refusal to expel members who committed espionage acts against the interest of the party by leaking important information about the party is incomprehensible in terms of societal common sense. However, given the nature of the Democratic Labor Party as a party with the abolition of the National Security Act as its official position, a generally acceptable and rational decision-making process might have been distorted as the issue over the party's response to a case to which the National Security Act forced a "pro-or-against the National Security Act" choice.

Right after the passage of the revised agenda deleting the proposal for expulsion of members involved in the *Ilshimhoe* case, Sim ○-Jung commented, "I think what happened yesterday paradoxically shows us why the National Security Act must be abolished. We have witnessed the paradox that even if there are people who leaked personal information of party members and confidential party information to an entity outside the party and operated under its instructions, we cannot hold them accountable because it is the National Security Act that they violated. The National Security Act not only suppresses freedom of thought but also seriously distorts progressive movements." Also, Roh ○-Chan, who left the Democratic Labor Party at that time and joined the New Progressive Party, and Kim ○-Sik, who remained in the Democratic Labor Party and left the party at the time of the split of the Respondent, both testified in common that 'There were many who took a critical stance regarding the expulsion of party members on the ground of violation of the National Security Act as a progressive party urging the abolition of the National Security Act, and that was not only the stance of the so-called Autonomy Faction within the party,' revealing

controversies within the Democratic Labor Party at that time.

Also, comprehensively reviewing comments criticizing the '*jongbuk*' (Pro-North Korean) stance of the Autonomy Faction at the time of the split of the party suggest that this could have overstated the reality: remarks by Sim ○-Jung shortly after a Special Party Convention that "I don't agree with the immoderate conclusion that the *jongbuk*-stance was the cause of the defeat in the presidential election"; Roh ○-Chan's testimony to the effect that "although there were some members who made *jongbuk* remarks or displayed *jongbuk* behavior within the party, the Democratic Labor Party has never adopted a *jongbuk*-line, and the biggest issue at the time of the split of the party was hegemonism"; observation by Cho ○-Yeon, who left the Democratic Labor Party at the time of the split of the party, in the book "History of Progressive Parties' Movements in Korea," about the process of the split of the party that "while not all members of the Autonomy Faction, which is the majority, were following the *jongbuk*-line, no one from the non-*jongbuk* Autonomy Faction has taken issue with the *jongbuk*-faction who were armed with anachronistic rationale"; the congratulatory remark by Cho ○-Su at the Policy Convention of the Democratic Labor Party on June 18, 2011, strongly criticizing the *jongbuk*-stance in the course of the split of the party that "on this occasion, I would like to ask your forgiveness, if anyone has been hurt by my harsh remarks at the time of the split of the party."

At the end, the Autonomy Faction admittedly had pro-North Korea tendency in the sense that there was criticism over the Autonomy Faction's blind nationalism, unification supremacy or anti-American and pro-North Korean tendency in the course of the split of the Democratic Labor Party. Furthermore, while it cannot be said that there was no '*jongbuk*' group in the sense of blind North-following tendency, it is also hard to say that only the '*jongbuk*' group remained in the Democratic Labor Party after the split of the party.

Meanwhile, the number of persons who left the Democratic Labor Party after the Special Party Convention in April 13, 2008, reached 16,094, and the number of members of the Democratic Labor Party, which once numbered more than 110,000 in around January 2008, was reduced to about 94,000. Considering the testimony of Kim ○-Sik that the ratio of the Autonomy Faction and the Equality Faction within the party was 5:5 or 51:49 and was almost even, and the status and importance of the Equality Faction revealed in the ratio of National Assembly members and key party officials, it is hard to assume that all party members from the Equality Faction left the Democratic Labor Party at the time.

ii) The process of the formation and split of the Respondent has already been reviewed above in connection with the Respondent's history, and the main conflict in the course of the formation and split of the party was not the Democratic Labor Party's stance on North Korea.

As examined above, during negotiations for creating the Respondent, the Democratic Labor Party pointed out the limitations of North Korean-style socialism and agreed to draft an agreement specifying, *inter alia*, an autonomous stance toward the North and the denuclearization of the Korean Peninsula. In addition, controversies over the hegemonism within the Democratic Labor Party and objection to a merger with the People's Participation Party effects in the voting down of the merger proposal at the New Progressive Party.

Moreover, the Respondent was in nature a de facto election coalition created through a merger of three entities, which were former members of the Democratic Labor Party, the People's Participation Party and the New Progressive Alliance, with the political conflicts among the three entities not fully settled or resolved, and for such a reason, it had an inherent limitation, which was lack of mutual trust. It also lacked capacities to amicably resolve by mutual consent the issue of whether its

rules were violated in the primary for proportional representation candidates, with most sharply conflicting interests among these entities.

As examined above in connection with the process of the split of the Respondent, even in a situation threatening its existence due to the controversies over undermining procedural democracy and internal democracy within the party, it put the interests of political factions first, and let the conflicts within the party lead to violence. This was against the common sense of the general public and also sparked fierce criticisms even from the so-called progressive camps. Also, such incidents resulted in the isolation of the so-called 'former leading faction' mainly composed of some of the former members of the Democratic Labor Party, who had opposed the draft reform plan that was blocked by violence, to wit the former members from the East Gyeonggi Alliance, a regional chapter of the National Alliance.

In other words, the direct cause of the split of the Respondent involved disputes among factions over the compromised internal democracy and determining accountability for this, and the power struggle based on each faction's human network within the party. Opposition to or disappointment at the so-called 'former leading faction' from the Democratic Labor Party caused not only the former members of the People's Participation Party and the New Progressive Alliance but also some of the former members of the Democratic Labor Party who had the same or similar ideological inclination, to join the rush to leave the party in the course of the split of the party.

iii) In comprehensively examining the course of the party split, formation, and re-split of the Democratic Labor Party and the Respondent, and the membership base of the Respondent which has shrunken compared to that of the Democratic Labor Party, with an increased proportional ratio of the Autonomy Faction or those friendly to the faction, these cannot be grounds to find that only those who have a

pro-North or *jongbuk* tendency among the former members of the Democratic Labor Party remain in the Respondent.

3) Review of the Petitioner's Argument Concerning the Leading Group of the Respondent

a) Petitioner's Argument

The Petitioner argues that the *Jusa* faction, i.e., the 'ideologically radical NL group' that follows North Korea's *Juche* ideology as a sub-faction of the Autonomy Faction, and in particular, the former members of the Democratic Revolution Party, has dominance over the leadership of the Respondent, and that this group, including the East Gyeonggi Alliance, the Gwangju-Jeongnam Alliance and the Busan-Ulsan-Gyeongnam Alliance ("**Bu-Ul-Gyeong Alliance**" in short), currently lead the Respondent. According to the Petitioner, the Democratic Revolution Party chose the National Alliance as a target for its control, recruited regional organizations of the National Alliance as its sympathizers, joined the Democratic Labor Party individually or by groups, drove out the Equality Faction at the time of the First Split after seizing hegemony jointly with other members of the Autonomy Faction within the Respondent, and then drove out members who had joined the party through a merger (former members of the People's Participation Party and the New Progressive Party) and all other members of the Autonomy Faction at the time of the Second Split, and finally came to dominate the Respondent. Also, the Petitioner argues that the 'revolutionary, radical NL group' plotted a rebellion. Now, each of those arguments will be examined.

b) Former Members of the Democratic Revolution Party who are Now Members of the Respondent

i) The Democratic Revolution Party is an anti-government organization that was formed on the basis of the "Anti-imperialist Youth Alliance,"

which was created by Kim ○-Hwan, Ha ○-Ok, Park ○-Seop, etc., for the purposes of studying, disseminating, and propagating the *Juche* ideology and fostering and training new-generation revolutionists, and had frequent contacts with North Korea to receive instructions and report situations, and operated in collaboration with North Korea. The Democratic Revolution Party held an inauguration ceremony on March 16, 1992, established immediate goals to achieve national autonomy in the colonial semi-capitalist South Korean society, develop democracy, and unify the homeland peacefully, under the platform that adopted the *Juche* ideology as the guiding ideology, and pursued the national liberation people's democratic revolution. To conduct nationwide operations, the Democratic Revolution Party had the South Gyeonggi Chapter, the Yeongnam Chapter and the Jeonbuk Chapter as provincial chapters under the central leadership, and regional subcommittees (Ulsan, Seongnam, Busan, Masan·Changwon·Jinju). The Democratic Revolution Party also claimed to have sectional chapters for operational leadership (youth movements, unification movements, civic organizations, student movements, and southern metropolitan area), but Kim ○-Hwan testified that these names were for convenience only and were never used. According to Kim ○-Hwan's testimony, the National Democratic Revolution Party was a secret network in which each member did not know the other members, numbering around 100, and included around 300 to 400 non-member activists. Kim ○-Hwan also testified that approximately 30 members of the National Democratic Revolution Party had abandoned the ideology around the time Kim ○-Hwan disbanded the party in 1997.

ii) Admittedly, members of the Respondent have been found to be members of the Democratic Revolution Party and criminally punished, including National Assembly member Lee ○-Ki, former president of ○○ Research Institute Lee ○-Yeop, and party member Han ○-Jin. Also, considering the relationship between the Democratic Revolution Party

and the Yeongnam Chapter, those who were criminally punished for the Yeongnam Chapter case can be deemed to be members or relevant persons of the National Democratic Revolution Party. They include Park ○-Soon, Vice President of ○○ Research Institute, Kim ○-Hyun, former Secretary General (Democratic Labor Party), and Bang ○-Su, a lecturer of the Party Member Education Committee (other persons who were prosecuted along with these persons were acquitted).

However, except for the above-referenced persons, no other members of the Respondent whom the Petitioner had argued were members or relevant persons of the Democratic Revolution Party have been criminally punished for joining the Democratic Revolution Party or for committing any enemy-benefitting acts. Cheon ○-Tae, Lee ○-Gyu, and Cho ○-Won were mentioned as members of the Democratic Revolution Party in the court decision convicting Lee ○-Ki or Lee ○-Yeop, but neither Lee ○-Gyu nor Cho ○-Won were investigated nor prosecuted, while Cheon ○-Tae was acquitted in the Yeongnam Chapter case.

Although the former head of the Democratic Revolution Party, Kim ○-Hwan, testified that the Respondent's party officials accused by the Petitioner as former members of the Democratic Revolution Party were indeed members or relevant persons of the Democratic Revolution Party or its sub-organization, this contradicts Kim ○-Hwan's testimony at the criminal trial of Ha ○-Ok, a member of the Central Committee of the Democratic Revolution Party. Moreover, others accused for being members of the Democratic Revolution Party have denied such accusations. Even if Kim ○-Hwan's testimony could be considered trustworthy in view of his position within the Democratic Revolution Party, it is hard to conclude that the persons accused by Kim ○-Hwan as members of the Democratic Revolution Party or of its sub-organization for the first time during his testimony in this case, well beyond his initial statements to the investigators of the Democratic Revolution Party case in the past, were in fact members of the

Democratic Revolution Party solely based on Kim ○-Hwan's testimony without any other compelling and conclusive evidence, and without allowing them an opportunity for impeachment. Such was the case regarding Min ○-Ryeol, Jang ○-Seop, Yu ○-Hee, Hong ○-Gyu, Kim ○-Hee, etc.

After all, the persons who are found to be members or relevant persons of the Democratic Revolution Party or members of its sub-organization, among members of the Respondent, are only the few who were convicted.

iii) A past criminal sentencing record whose sentence has expired still remains an objective record of a convicted crime, and therefore, apart from the issue of admissibility of such record as evidence, it cannot be said that the use of such record as a reference for judgment to infer the inclination of the person in question is prohibited, along with other proofs.

Moreover, it might be meaningful to examine the ideological inclination or purpose of former members of the Democratic Revolution Party despite their small number, given that they are in a position to influence members of the Respondent while serving as key officials of the Respondent or as members of the National Assembly.

However, the issue here is their ideological inclination and purpose 'at present,' and thus it is clear that their activities or comments at present should be the main basis of judgment. Their past activities or criminal records should be used as supplementary materials to the extent necessary to understand and assess the meaning of activities, comments, etc., at present.

In other words, even if a person engaged in activities following North Korea's strategy for revolution in South Korea or had such inclinations

in the past, it is hard to infer that such idea, belief, or purpose remains intact after a considerable period of time. Also, there is no ground to conclude that a change in a person's thought or belief may only be recognized as genuine when explicitly expressed.

The constitutional order of the Republic of Korea did not envision human characters as individuals in isolation, but mature human beings who maintain a balance, in constant mutual connection with the community, and who determine and build their lives on their own. Arguing that past records can be used as direct criteria for judging present thought not only amounts to denying such human characters but also could result in positively approving the discrimination and exclusion of a certain person from this society, apart from legal liability for past activities.

Kim ○-Hwan testified that the persons he mentioned are likely to maintain the thoughts they had when they were in the National Democratic Revolutionary Party and are likely to continue activities for realizing the platform and purposes of the National Democratic Revolutionary Party. However, Kim ○-Hwan also testifies he has never met Lee ○-Ki and the members of the South Gyeonggi Chapter or the Yeongnam Chapter, which was under the guidance and control of Hah ○-Ok, while conducting activities in the National Democratic Revolutionary Party, and that he has never had any contact with officials of the National Democratic Revolutionary Party after it declared the dissolution of the party. According to his testimony, Kim ○-Hwan is not in a position to have firsthand knowledge about what kind of activities former members or officials of the National Democratic Revolutionary Party have conducted or what kind of changes have occurred in their ideologies and thoughts. After all, even assuming that Kim's testimony is trustworthy, but such trustworthiness is limited to past records of the National Democratic Revolutionary Party prior to its dissolution, and Kim ○-Hwan's testimony that the persons who were

members of the National Democratic Revolutionary Party or of its sub-organization are likely to continue activities for the National Democratic Revolutionary Party or are unlikely to have changed their beliefs is not more than his subjective opinions or conjectures.

iv) Activities of officials or National Assembly members in the Democratic Labor Party or in the Respondent, who were former members of the National Democratic Revolutionary Party, will now be examined.

① Lee ○-Ki

Lee ○-Ki joined the Respondent after the formation of the party but had not joined the Democratic Labor Party. In an article entitled, "declaration of candidacy," published in the Respondent's official journal "Progressive Politics" around the time he ran for proportional representation candidate for the Respondent, Lee ○-Ki contended that, " I have advocated the line of building a progressive party for a long time since the 1990s. It was the 1990s when I laid the cornerstone for movements for such a party by preparing for full-scale movements for such a party together with comrades, strengthening the local basis of the party, and running for elections of public officials at various levels." Lee ○-Ki also claimed to have taken part in the growth of the "Voice of People," a news agency, and provided actual support toward the party's advancement by establishing "○○ Research Institute," an opinion poll agency, and "CNP Group," a company specializing in promotions and strategy consulting for progressive camps.

As reviewed above, Lee ○-Ki attended events of the party, urging the attendees to unite, such as the "rally for resolving support for Lee ○-Ki" on March 8, 2012, the "rally for resolving protection of the party" on May 3, 2012, the "rally for the determination of candidates for the election of officials of the Unified Progressive Party" on June 21, 2012,

and the "Closing Ceremony for Victory Campaign HQ " on August 10, 2012.

Concerning the controversy that was sparked after being elected as a National Assembly member, Lee ○-Ki said in a TV interview on May 11, 2012, "Some people mention pro-North Korean as problematic, but the greater problem is pro-American," and commented in a talk with journalists on May 15, 2012, that "The national anthem is just one of the songs expressing love for the nation and was designated (as the official national anthem) by the dictatorship. I don't mean we should not sing the national anthem, singing it is fine."

Meanwhile, Lee ○-Ki stated during an interpellation on April 25, 2013, when tensions over inter-Korean relations were high, "I am very positive to the Korean Peninsula Trust-Building Process proposed by President Park Geun-Hye; just as North Korea's nuclear weapons should not be used on the Korean Peninsula, the United States' nuclear weapons should likewise not be used on the Korean Peninsula; if the government gives top priority to the people's safety, it should not deter nuclear weapons with nuclear weapons on the Korean Peninsula; our government must take the initiative in dialogue with North Korea and must ask the international society to wait with trust in us; and let us, the Republic of Korea, propose four-party talks first and promote a declaration of cessation of war."

As reviewed above, Lee ○-Ki also attended the Meetings at Issue as a lecturer, assessing the situation at that time as a stage where the severity of crisis of a war was high, encouraged attendees at the lecture on the situation to unite ideologically and practice the ideology, criticized activities, etc., conducted inside and outside of the party to oppose war and demand peace as biased, insisted on cooperation with North Korea in wartime, and demanded "physical and technological preparations," including military activities.

In light of Lee ○-Ki's past records as well as the above-referenced activities, it is found that Lee ○-Ki vigorously attempted to justify his past and present activities, including the National Democratic Revolutionary Party case and the vote-rigging case in the primary for proportional representation candidates, while continuing activities to consolidate supporters among groups of the Autonomy Faction in the Respondent before the splitting of the party, and urging and strengthening unity, and showed ambivalent attitudes by taking the stance of respecting the party's policy line in his activities in the National Assembly or his official external activities, such as press interviews, while keeping a distance from the party's stance in unofficial activities. Lee ○-Ki emphasized 'autonomy' based on strong hostility against "American imperialism" and conducted activities for seizing party hegemony through faction formation and hegemonism. The lecture given at the meeting on May 12 was the case that clearly revealed Lee ○-Ki's perceptions of reality and attitude and stance toward North Korea, in that he went beyond the level of a speech for emphasizing the overcoming of the crisis of war in a critical situation and inspiring attendees' faith, praised North Korea's demonstration of armed forces based on extreme nationalism, and insisted on cooperation with North Korea in wartime.

② Other members of the Respondent Other Than Lee ○-Ki

Now members of the Respondent other than Lee ○-Ki will be examined.

Yu ○-Hee, a Supreme Council member identified by the Petitioner as an official of the National Democratic Revolutionary Party, said that "I am the "○○ faction" at the "rally for the determination of candidates for the election of officials of the Unified Progressive Party" held on June 21, 2012, where Lee ○-Ki also attended. But the event was held to collect votes ahead of an election of party officials where the expulsions of Lee ○-Ki and Kim ○-Yeon were at stake. Therefore, Yu

○-Hee's remarks seemed to have been made to express an opposition to the expulsion of Lee ○-Ki and to seek support as a candidate for a Supreme Council member, and do not indicate that Yu ○-Hee shared the personal beliefs of Lee ○-Ki. Yu ○-Hee did not attend the Meetings at Issue.

Meanwhile, Kim ○-Hee, a National Assembly member identified by the Petitioner as an official of the National Democratic Revolutionary Party, attended the Meetings at Issue, but did not deliver any official remark nor participated in any discussions, and therefore it would be difficult to claim that Kim ○-Hee shares the personal beliefs of Lee ○-Ki solely on the ground of his presence at the Meetings at Issue. The nature of the Meetings at Issue will be subsequently examined again in connection with activities of the Respondent.

The stance of other members of the Respondent identified by the Petitioner as members or officials of the National Democratic Revolutionary Party or of its sub-organization have been reviewed above in connection with the Respondent's history, and it cannot be concluded that such stance was based on their blind following of North Korea, as already examined in connection with the inclination of the Autonomy Faction during the days of the Democratic Labor Party.

Meanwhile, the stance taken by the above-mentioned members of the Respondent toward issues related to North Korea remained unchanged around the time when the Respondent was founded. Kim ○-Hee, a National Assembly member identified by the Petitioner as an official of the National Democratic Revolutionary Party, commented in an emergency press conference on January 29, 2013 concerning the adoption of a resolution by the United Nations Security Council on sanctions against North Korea and North Korea's notice of hard-line responses, "The Lee Myung-Bak Administration's hard-line policy toward the North brought about military tension and a crisis of

collision." Lee ○-Gyu, another National Assembly member also identified by the Petitioner as a member of the National Democratic Revolutionary Party, refused to answer a question when asked, "What do you think about human rights in North Korea, North Korea's nuclear weapons, and the hereditary succession for three generations?" during the ○○ 100-minute Forum on May 22, 2012, stating instead, "It is regrettable that the phrase, 'pro-North Korea' runs rampant. The verification of one's ideology that still goes on chokes the freedom of conscience, and this type of question and frame cause considerable problems." In an interview with Media Today on May 24, 2012, Lee ○-Gyu contended, "Basically, I don't agree with North Korea on nuclear weapons. I understand North Korea's situation in which it has no choice but to possess nuclear weapons but basically I pursue a nuclear-free world, a peaceful order in Northeast Asia with no military clash." Concerning the three-generation power succession and human rights, Lee ○-Gyu remarked, "They are not understandable from the viewpoint of the South. We have to start after recognizing the point. On the contrary, the capitalist regime in the South is unlikely to be neither recognizable nor understandable to North Korea. In order to find exactly why North Korea behaves like that, it is necessary to intensify exchange and cooperation, improve inter-Korean relations, and enhance mutual cooperation. Condemning them or treating them as evil will put us into a state of confrontation."

Such remarks differ from the stance taken by the Democratic Labor Party or the Autonomy Faction of the Democratic Labor Party in the past. Nevertheless, it can hardly be concluded that they internalize an ideology to follow North Korea and believe in the *Juche* ideology only based on the suspicion that they were involved in activities of an anti-government organization approximately ten years ago.

Although it is controversial whether the stance or policy attitude taken by them toward North Korea is appropriate, rational, and reasonable as

politicians who belong to a political party that pursues the seizure of power and is willing to take responsibility to play a leading role in building up inter-Korean relations according to the principles of transparency and reliability after it seizes power, such issue should be solved by examining political responsibility or confirming legitimacy by votes of both members and supporters of the Respondent as well as ordinary citizens through periodically held elections.

c) Whether Lee ○-Ki and His Supporters Dominate the Respondent

i) Lee ○-Ki's Supporters in the Election for Proportional Representation Candidates

Persons who supported Lee ○-Ki in the primary for proportional representation candidates have not been identified yet. Moreover, it is unclear whether they voted for Lee ○-Ki knowing his personal beliefs or political aims, or whether in view of his past operations, they expected that he would contribute to the development of the Autonomy Faction or the party, as he had stated in his declaration of candidacy, or whether they simply had a friendly relationship with or a haze of good feelings toward Lee ○-Ki.

The controversy over Lee ○-Ki's *jongbuk* (pro-North Korea) stance began in earnest after Lee ○-Ki was elected to the National Assembly as a proportional representative, but there were no indications that his personal political inclinations and affinities toward North Korea had been clearly disclosed to the party during the primary, excepting his past involvements with the National Democratic Revolutionary Party case.

Although 300 to 400 supporters supposedly attended the "rally for resolving support for Lee ○-Ki" or the "rally for resolving protection of the party" held after the primary for proportional representation candidates, the attendees are not identifiable, and it has not been

confirmed whether most of the persons who attended several events are the same persons. Moreover, it cannot be said that his inclinations toward hegemony and his affinities toward North Korea had been clearly revealed, other than through his remarks at events, and that such attendees concurred with and followed Lee ○-Ki's inclination or beliefs.

After all, the circumstances that arose before and after the electoral fraud in the primary for candidates for proportional representatives demonstrate only the fact that many members of the Respondent determined that Lee ○-Ki was qualified for the candidacy for a proportional representative of the Respondent, even after taking into account voting by proxy or double voting, and that they manifested their opinions that it was unfair to expel a candidate without well-founded evidence that the candidate was liable directly for fraudulent conduct, such as voting by proxy or double voting.

Unless it can be said that supporters of Lee ○-Ki manifested certain opinions collectively or continued their activities with a separate platform, they cannot be identified as one observable organizational entity only based on the circumstances reviewed above, and a group with no distinct organizational entity cannot be viewed as having control of the Respondent.

ii) Attendees at the Meetings at Issue

As will be examined subsequently, the Meetings at Issue consisted of lecture sessions on the current situation held by Kim ○-Yeol, Chair of the Respondent's Gyeonggi Chapter, with the attendance of former and current party officials and partisans of the Gyeonggi Chapter. Since a considerable number of attendees were local activists in the Gyeonggi region, it is probable that they worked together in the past when the East Gyeonggi Alliance, a regional organization of the National Alliance, existed and that they might be identified as "the East Gyeonggi Alliance

faction" in the party due to such past career.

However, it cannot be said that they formed a group supporting Lee ○-Ki with beliefs identical to Lee ○-Ki's and had an influence upon a considerable number of members identified as "the East Gyeonggi Alliance faction" in the party, controlling them at their will.

Although Lee ○-Yun's testimony and descriptions of the transcript of an audio recording demonstrate that Hong ○-Seok and Han ○-Geun, who attended the Meetings at Issue, studied the *Juche* ideology together with books from North Korea, there is no objective evidence to demonstrate that any attendee other than those named above has been involved in such activities. In view of the fact that remarks on the exercise of violence in wartime at the May 12th Meeting were what some attendees, including Lee ○-Ki, made in response to questions from attendees who did not understand what Lee ○-Ki's lecture meant, the fact that Lee ○-Ki himself conceded that the phrase "physical and technological preparations" is an unfamiliar expression, the fact that the outcomes from sectional discussions were not based on the entire agreement of all attendees at the meeting, and the fact that no particular move took place to materialize or put such outcomes into action after the May 12th Meeting, it cannot be found that all the attendees at the meeting shared the same ideological aim with that of Lee ○-Ki or any other major speakers.

Although most of the attendees at the Meetings at Issue are said to be former or current officials of the Gyeonggi Chapter, not all of them occupied major official positions in the Respondent. In particular, the persons identifiable as major officials of the Respondent, among major speakers who gave radical remarks at the meeting, were few in numbers, such as Lee ○-Ki who delivered the lecture and Kim ○-Yeol who presided over the meeting. The fact that a few persons held control of a

considerable number of members identified as "the East Gyeonggi Alliance faction" seems to go beyond reasonable inference, unless the specific process or personal connections are clearly disclosed.

d) Whether Former Members of the Democratic Revolutionary Party have Control over the East Gyeonggi Alliance

i) Kim ○-Hwan testified that "The organization mostly led by the National Democratic Revolutionary Party included the Council of (Democratic) Youth Organizations of Korea Council of Youth Organization (dissolved in 1998), and the organizations in which it played a leading role in practice included Gangseo-Yangcheon *Hanmulgyeol* Youth Association, Guro Youth Association, *Teosarang* Youth Association in Seongnam, and Seongnam Youth Association; it held control of 70 to 80 percent of student organizations in the South-east Gyeonggi region and Jollabuk-do, held control of the Patriotic Spearhead of ○○ University and of the Patriotic Spearhead of ○○ University.

Meanwhile, Kim ○-Hwan conceded, when interrogated by the prosecution in connection with the Democratic Revolutionary Party, that he prepared reports to North Korea on the organizations under the control of the National Democratic Revolutionary Party, and that such reports described that the National Democratic Revolutionary Party could exercise influence of approximately 30 percent over the decision-making process of such organizations. *Chonghwaseo*, which is said to have been made by Lee ○-Ki through Ha ○-Ok, describes that the leadership over the Seongnam Alliance should be strengthened and that they succeed in holding control of an association called "Seong-Cheong-Dae-Hyeop" after many complications. Hah ○-Ok wrote a statement at an investigation agency in January 1994 to the effect that Hah ○-Ok taught approximately 20 members of the Democratic Revolutionary Party, who had penetrated into youth organizations, regional organizations of the

National Alliance, trade unions, etc., to improve their activity in such organizations and develop their revolutionary capabilities to gain public support.

In sum, it is probable that the Democratic Revolutionary Party intended to exercise influence over student or youth organizations, workers' associations, regional organizations of the National Alliance, particularly organizations or associations in the Seongnam area, through Lee ○-Ki and other members or officials, but it is not certain to what degree of influence the party exercised and how and through whom the party exercised such influence.

Furthermore, the persons identified by the Petitioner as operating within the Respondent, and whose records include anti-government activities or enemy-benefitting activities, such as membership in enemy-benefitting organizations like Action and Solidarity or the Youth Organizations of Korea (Council of Youth Organizations, dissolved in 2009), or involvement in the *Ilsimhoe* case, show no direct connection between the organizations in which they operated and the Democratic Revolutionary Party, nor show any ground to find that they have a separate organization; their activities will be examined subsequently as an issue concerning the recruitment of persons who have records of anti-government activities or enemy-benefitting activities.

ii) The person recognized as the actual leader of the ○○ Gyeonggi Alliance for a long time in the Democratic Labor Party is Lee ○-Dae, the former Chair of the Democratic Labor Party's Policy Committee. Lee ○-Yun, the informant of the Meetings at Issue, had also pointed out Lee ○-Dae as the leader or the head of the organization when he first began informing the National Intelligence Service in 2010. However, the connection between Lee ○-Dae and the National Democratic Revolutionary Party has not been confirmed by statements of Kim ○-Hwan or any other member or official of the National Democratic

Revolutionary Party, and there is no evidence demonstrating such connection other than the claim of Lee ○-Yun, who has no direct connection with the National Democratic Revolutionary Party.

iii) Now it will be examined whether the East Gyeonggi Alliance has an observable organizational structure, and share the platform or ideology of the National Democratic Revolutionary Party.

The Alliance formed as the result of the merger of the Seongnam Alliance, a regional organization of the National Alliance, and regional organizations in the vicinity of Seongnam such as Yongin, Gwangju, Hanam, Icheon, as an alliance of non-governmental, civic organizations in Seongnam and nearby areas. Therefore, the persons who worked together in the East Gyeonggi Alliance could probably have certain personal ties among them, but it cannot be found that such ties are the same as relationships between members of a uniform, hierarchical organization, or that such ties have been formed as a result of sharing common purposes or firm values.

Even though they demonstrated strength of unity by supporting a particular candidate in an election of party officials on the basis of past personal relationships and the certain ideological homogeneity of the Autonomy Faction, it is hard to conclude that the hegemonic inclination has to do with their pro-North Korean stance since such inclinations exist among other factions with some variations in seriousness.

In order to find the ideological homogeneity of the group called the East Gyeonggi Alliance and draw its substance therefrom, it has to be proven in principle that it had public political activities from which to infer certain common purposes. If public political activities do not exist, it must be proved at least that a secret platform or an organizational structure exists, or that the individual members are identifiable and their inclinations unitary.

The pro-North Korean stance of a minority of members of an organization identified by the Petitioner as members of the East Gyeonggi Alliance, such as Lee ○-Ki, cannot alone lead to the conclusion that the East Gyeonggi Alliance as an entity is pro-North Korea.

Moreover, acts which the Petitioner deems are the collective actions of the East Gyeonggi Alliance, such as the vote-gathering incident during the party officials election, the proxy-voting during the vote-rigging case in the proportional representation candidates primary, and the violence in the Central Committee, are irrelevant to the issue of the pro-North Korea stance of the East Gyeonggi Alliance, and cannot be viewed as acts committed by the group.

iv) In the end, it is difficult to conclude that former or current members of the National Democratic Revolutionary Party influenced the internal decision-making process of the East Gyeonggi Alliance, or that the East Gyeonggi Alliance possesses an organizational structure that shares the platform or purposes of the National Democratic Revolutionary Party and acts thereby.

e) Whether the Current Leading Group of the Respondent Can be Recognized as a Unified Entity

According to the Petitioner, the Respondent is currently led by the Alliance, the Gwangju-Jeonnam Alliance, and the Busan-Ulsan-Gyeongnam Alliance.

However, as acknowledged by the Petitioner, the Gwangju-Jeonnam Alliance and the Busan-Ulsan-Gyeongnam Alliance did not act uniformly at a time the Respondent most desperately needed the unity post-formation, i.e., during the primary for nominating the proportional representatives candidates, and during the controversy over the expulsion

of Lee ○-Ki, an allegedly key figure of the East Gyeonggi Alliance. Each alliance nominated their own candidates for the proportional representation candidates primary, and the results of the election turned out contrary to the so-called collusive "setting" practice (distribution of votes that each group is expected to win as calculated in advance) alleged by the Petitioner. If a group could cast one vote for the combined lists of general candidates, women candidates, and candidates with disabilities altogether, the East Gyeonggi Alliance should have won first place on each list by nominating candidates at the level of the entire alliance and allocating votes to each list so as to win the highest place on each list; in fact, the votes won by each group in the election were far from the result that could be expected from employing such "setting" methods.

Next, the Petitioner also agree that the Busan-Ulsan-Gyeongnam Alliance did not oppose the expulsion of National Assembly members Lee ○-Ki and Kim ○-Yeon, when their expulsion emerged as an issue within the Respondent. This is an unlikely scenario to occur in an organization based on an identical ideological foundation, similarly unlikely to occur under the leadership of Lee ○-Ki himself.

Although these alliances have some commonalities in pursuing the idea of autonomy, democracy, and unification, which has been emphasized persistently by the Autonomy Faction since the era of the Democratic Labor Party, in addition to the Respondent's basic political line, one cannot conclude that the alliances share or support any other ideology and conduct activities uniformly in unity.

f) Whether the Leading Group of the Respondent Holds Hegemony in the Party

Even if, as alleged by the Petitioner, the Leading Group of the Respondent is an ideologically homogeneous group with hidden

objectives that occupies the majority of leadership positions within the Respondent, it does not mean that the Respondent has become a puppet that moves in accordance with the intentions of the East Gyeonggi Alliance, the Gwangju-Jeonnam Alliance, and the Busan-Ulsan-Gyeongnam Alliance.

According to a report released by the National Election Commission, the number of active dues-paying members of the Respondent is still considerably large, although it was reduced to 29,844 persons as of January 2013 from 41,444 persons in November 2012, and the Respondent's membership still number approximately 100,000, although this number includes those who did not officially defect from the party due to the complexities of undergoing the formal process. The allegation that such a large number of party members has been seized by and is controlled by the leadership is a difficult argument to understand.

Another issue is "ulterior objectives." The Respondent has never announced publicly that it has followed or implemented North Korea's strategy for a revolution in the South, and Lee ○-Yun, the informant of the alleged rebellion case, also testified to the same effect. It cannot be found that the majority of members of the Respondent at present are aware of, and consent, to any hidden purpose or activity other than the Respondent's disclosed objectives and activities. If the hidden objective of the East Gyeonggi Alliance alleged by the Petitioner, i.e., the pursuit of North Korean-style socialism, is disclosed, it is highly probable that party members who support the currently disclosed line of the Respondent will oppose such ulterior objective or activity and replace its leadership or leave the party.

Moreover, even if major decisions of the Respondent at present are made unanimously or nearly unanimously, as alleged by the Petitioner, it is hard to find this extraordinary in view of the Respondent's current situation, with its ideological homogeneity heightened by the majority of the Autonomy Faction, unlike during the era of the Democratic Labor

Party wherein the Equality Faction and the Autonomy Faction showed clear confrontational structures, or at the time of its formation when the group from the New Progressive Party, the group from the People's Participation Party, and the group from the Democratic Labor Party formed a structure of mutual control. Internal unity of the Respondent seems to be strengthened in response to the external crisis brought about by the rebellion-related case and the proceedings of adjudication on this case, and it cannot be said that such unity reveals that the Respondent is seized by the East Gyeonggi Alliance.

4) Whether the Respondent Advocates Anti-government Activities and Enemy-benefitting Activities

a) Appointment of Party Officials with Records of Violating the National Security Act

i) The Political Parties Act provides that any person, other than specified public officials and school teachers, may become a promoter or a member of a political party (Article 22), and there is no other statutory ground to restrict the qualification of party members by reason of past conduct. The Respondent's constitution also provides that any person who is qualified for a party member under relevant statutes and consents to the platform and basic policies of the party may become a party member according to the procedure prescribed its regulations (Article 4 (1)) and does not place any particular restriction thereon. Therefore, even if a person has a past record of criminal punishment for a violation of the National Security Act or any similar offense, there is no ground to disqualify such person from membership with the Respondent, as long as the person consents to the basic principles of the party, and the person may be appointed to a party official according to ordinary procedures and methods, if the person consents to the platform and basic policies of the Respondent. Placing restriction on the freedom of present activities of a political party only by reason of past records may constitute a

serious violation of fundamental rights.

If a person who personally sympathizes with North Korea or faithfully follows North Korea attempts to apply their personal beliefs in the ideology of a political party, or use the organization of a party for pursuing personal beliefs after the person becomes an official of the party, that such a person could endanger the basic democratic order is acknowledged.

However, the following facts make the possibility of a minority of party officials seizing and controlling the activities of the Respondent according to their will unlikely: a person's acts in violation of the law may be deterred by criminal prosecution, and the facts revealed from such criminal prosecutions could lead to the autonomous exclusion of such a person from the Respondent's decision-making process; the Respondent prescribes that most party officials eligible for participating in the party's decision-making process shall be appointed by election (Articles 10, 11, 15, etc., of the party's charter concerning elections of party leader, Supreme Council members, representatives, Central Committee members, etc.); the Respondent disperses the party's power to make decisions to its organs (deliberative organ, executive organ, central party, regional chapters, etc.), and specifies that decisions on the party's major policies and direction, etc., shall be subject to resolutions at the Party Convention so as to ensure that more party members can participate in its decision-making process (Article 13 of the party's constitution).

The possibility exists for the Respondent to intentionally and deliberately bring in or promote into official positions a person or an organization that in the past supported objectives or activities in violation of the basic democratic order, in order to succeed such purpose or activities. Under such exceptional circumstances, the party may be seen as intending to violate the current basic democratic order, but in order to

make judgment on such a case, the objectives and activities of the party at present, the methods for the solicitation of party members and for the appointment of party officials, etc., should be comprehensively examined.

In the present case, as pointed out above, a past record of violating the National Security Act cannot serve as circumstantial evidentiary proof of that person's aims to conduct anti-government or enemy-benefitting activities, and the Respondent's platform or guiding ideology cannot be equated as anti-government or enemy-benefitting activities under the National Security Act, and no evidence exists to find that the Respondent deliberately recruited persons who violated the National Security Act in an organized manner. Although a number of the Respondent's former or current officials or leadership include persons who have past records of violating the National Security Act, there is no evidence to find that they were appointed as key party officials without going through ordinary procedures, and there is no evidence that the Respondent had a top-down decision-making structure or forced party members to follow the opinion of the leadership. Therefore, the past records of some members or officials of the Respondent concerning violations of the National Security Act cannot be viewed as demonstrating collaboration between the Respondent and North Korea.

ii) As reviewed above, persons who have past records of violating the National Security Act, such as those involved in the *Ilsimhoe* case, the Action and Solidarity case, and those in the Democratic Revolutionary Party and the Yeongnam Chapter cases, are participating in the education of the members of the Respondent. However, the recruitment of those who have such past records alone does not pose a problem in itself, as reviewed above. Insufficient evidence exists to show that the Respondent recruited those persons with an intent to induce party members to participate in anti-government activities or sympathize with, or follow, North Korea, and because the Respondent sympathizes with persons who have such past records of violating the National Security Act or

following North Korea.

b) Whether the Persons Who Violated the National Security Act Were Internally Disciplined Within the Party

The Petitioner alleges that the Respondent did not subject its members or officials to disciplinary punishment, protecting them instead despite their violation of the National Security Act.

Aside from being accountable for their own criminal actions and legal responsibilities, the Constitution should not be interpreted as imposing restrictions on a person's freedom of activities in a political party or the freedom of expressing political opinions in the private realm, or imposing a duty upon a political party to place such restrictions by reason that every political party should perform some public function. A political party may autonomously decide that it will not conduct political activities together with a person who causes any trouble to the society, but prescribing the qualification and duties of party members should be guaranteed as the freedom of activities of political parties and should not be approached as a duty.

Unless the Respondent conducts any activity that actively justifies the activities of a party member or official after the member or official is convicted in connection with an anti-government or enemy-benefitting activity, it would be a logical jump to conclude that the Respondent advocates such crime, only because the Respondent did not take a critical measure against the member or official who violated the National Security Act or permits a convicted member or official to continue normal activities in the party without taking any disciplinary measure against the member or official, such as expulsion, or that its purpose is to systematically sympathize with and follow North Korea.

5) Whether the Unified Progressive Party is Found to have been

Instructed or Commanded by North Korea

The Petitioner alleges that the Respondent has been under the command, control or influence of North Korea as seen through espionage cases in which members of the Democratic Labor Party, the forerunner of the Respondent, were involved, and cites the Kang ○-Un case, the *Ilsimhoe* case, and the *Wangjaesan* case as examples.

a) Kang ○-Un, an advisor to the Democratic Labor Party, was convicted of espionage because he delivered internal documents of the Democratic Labor Party according to instructions from North Korea and conducted other espionage activities. However, it was found that Kang ○-Un failed to recruit key officials of the Democratic Labor Party, and the Democratic Labor Party announced a statement that it would remove Kang ○-Un from office as advisor and deprive him of party membership after the disclosure of the case. In the end, it is difficult to conclude that Kang ○-Un's activities influenced the Democratic Labor Party to a certain degree.

b) As for the *Ilsimhoe* case, it is as examined earlier connected to the Respondent's history. Among the persons involved in the *Ilsimhoe* case, two were members of the Respondent, Choi ○-Young and Lee ○-Hun. Although they were officials of the Democratic Labor Party, Deputy Secretary General and a Central Committee member, respectively, they were not in any position to participate in the party's deliberative organ or its supreme executive body. Central Committee members could attend meetings of the Central Committee, which was the deliberative organ, but given the large number of Central Committee members, one member cannot be viewed as having power to sway, or significantly influence, the decision-making process (the Respondent has 93 Central Committee members at present). Moreover, the instructions that they received concerning elections for party officials were eventually unsuccessful. Therefore, it cannot be found that the decision-making process of the

Democratic Labor Party was influenced by their activities.

c) In the *Wangjaesan* case, members of the so-called "*Wangjaesan*," including North Korean agents Kim ○-Yong, Lim ○-Taek and Lee ○-Gwan, were convicted on the ground that from between 2001 and 2003, they were recruited by North Korea and conducted activities as an underground party in order to implement the strategy for a revolution in the South mainly in the Incheon area. Although "*Wangjaesan*" received an instruction from North Korea in February 2011 to "induce the unified progressive party to adopt progressive democracy as its guiding ideology and complete the building of the grand unified progressive party by October," and another instruction to "expand and strengthen the Democratic Labor Party and promote the building of the grand unified progressive party as planned," the "*Wangjaesan*" did not include any member of the Respondent. Furthermore, no evidence exists to determine whether the persons involved in the "*Wangjaesan*" case contacted any member of the Respondent or what kind of activities they actually conducted in connection with the grand consolidation of progressive camps, and the joint conference of representatives of progressive camps for the building of a new progressive party had already been formed in January 2011, prior to the receipt of instruction concerning the grand consolidation of progressive camps. Roh ○-Chan testified that the Democratic Labor Party had never claimed that 'progressive democracy' should be adopted as the guiding ideology during discussions for the grand consolidation of progressive camps. Therefore, it cannot be found that the Democratic Labor Party or the Respondent has been influenced by any activities of the persons involved in the "*Wangjaesan*" case.

d) In conclusion, it cannot be found that the decision-making process of the Democratic Labor Party or the Respondent has been influenced by the espionage cases, such as the *Ilsimhoe* case and the *Wangjaesan* case, or has been under the command, control or influence of North Korea. Moreover, there is no evidence to demonstrate direct connection between

the Respondent and North Korea, and has not been proven by any means.

(d) Sub-conclusion

1) With respect to its own ideological nature, the Respondent defines itself as "a progressive party that critically inherits ideals and historic achievements of progressive movements in our country and throughout the world, overcomes the harmful effects of capitalism, realizes various progressive values, such as autonomy, equality, peace, liberty, welfare, ecology, human rights, minorities' rights and solidarity, and pursues a new alternative society" (Platform Preamble).

This means that the party critically inherits various progressive ideas and theories (theories of socialism, democracy, nationalism, social democracy, etc.) to overcome the harmful effects of capitalism, inherits and develops achievements therefrom, drastically improves limitations and problems, considers various progressive values as the party's core values, along with the values of autonomy and equality, and pursues an alternative regime and an alternative society to overcome problems of the present society, because the problems that the present society suffers are structural and it is impossible to create a world of which the working people are the owner, without changing the structure ("Commentaries on the Platform").

Korea has achieved remarkable political and economic developments in a fairly short period of time, but no one would say that the political and economic realities in Korea are ideal or that it is no longer necessary to point out its problems. The word "utopia" that refers to an ideal world also has another meaning, "a place that does not exist in reality," and human beings have ceaselessly tried to make the world a better place.

In particular, even where capitalism appears to be winning globally,

questions about its problems continue. One Korean economist has argued that, "The reason why capitalism has not come to an end is not that today's capitalism is the best choice or works well. The reason is just that we cannot abandon the current system without an alternative. It is so at least in the present situation where the historic experiment of socialism ended in failure. If there is no alternative option, we have no choice but to sustain today's capitalism, and it would be the best option to make today's capitalism better by rectifying its defects, if it has defects."

The Respondent advocates a "progressive democratic" regime as a mere socialistic alternative system in a broad sense, based on the belief that the establishment of an alternative regime for a drastic change, rather than gradual reform or improvement, is necessary as a means to solve the problems of Korean society, based on its perception of reality. Concerning whether the alternative proposed by the Respondent is efficient and realistic, any different opinion may be presented, but it cannot be found that the Respondent's proposal for an alternative regime conflicts with the core values of the basic democratic order that the system for dissolution of unconstitutional political parties intends to protect, on the ground that it is "revolutionary" because it talks about overcoming and urges a drastic change, rather than the improvement of harmful effects.

Even if the Respondent perceives the problems of the present society as structural and pursues a structural and drastic reform, merely challenging the established order does not constitute an act forbidden in a free and democratic state. If the means used by a political party is lawful and conforms to the basic principles of democracy, the political party should be able to promote changes in legal and constitutional structures of the state. Therefore, it cannot be found that the Respondent's objectives reviewed above are contrary to the basic democratic order, unless it is proved specifically that the Respondent

pursues reform with a violent means or any other means contrary to basic principles of democracy or attempts to overthrow the basic democratic order.

Moreover, the Respondent does not understand that the ideals and values pursued by it are absolute truth or a corollary of the development of history, does not deny the freedom of expressing political opinions opposed to its own opinions or the democratic mechanism of forming opinions, and does not deny any system or norm that does not conform to socialistic ideals and values.

Even though the Respondent expresses criticisms of the existing political and economic order, and advocates amendment to some of the provisions in the Constitution, or enactment of major amendments to bring about significant changes in the regime, so as to realize progressive democracy advocated by the Respondent, "it is the most fundamental right that the people hold as the sovereign and the right to be protected most strongly to amend or repeal the Constitution or seek a constitution with different provisions," and "it is the most essential part of political freedom guaranteed by the Constitution to express political objection against policies, morality, or legitimacy of the ruling group" (Constitutional Court, Case No. 2010Hun-Ba132, Mar. 21, 2013, et al.). Thus, it cannot be found that such circumstances serve as circumstantial evidence that Respondent's objectives are contrary to the basic democratic order.

2) Generally speaking, progressive ideas originate from a belief that it can create a better world through societal reforms. Historically, such attempts sometimes fail to produce desired outcomes or face criticisms from opponents that artificial social reforms can only have adverse effects, but no one can say that struggles and efforts to achieve an equal and righteous society for living well together are wrong altogether.

In many cases, a progressive idea understands that a society is composed of a camp with established privileges and another camp without such privileges, and such a view in fact has a very long history. There were theories based on the classification of people into the rich and the poor and aristocrats and commoners even in ancient Greece, where thoughts about politics began for the first time. Likewise, a perspective to understand the international order as the confrontation of ruling strong nations and oppressed weak nations also has a theory with a long history. Irrespective of whether it is a medieval society, a feudal society, a modern society, or an age of democratic republics, the political views with a long history, as mentioned above, are recognized as still applicable and theoretically valid because they are modified to a variation to fit conditions.

The same applies to the Respondent in the present case, which identifies itself as a progressive party. "A society of which the working people are the owner" or "an autonomous government" free from foreign powers advocated by the Respondent is a claim laid in the long tradition of political philosophy and is not an idea originally created and presented by the Respondent. Today, various so-called progressive parties in many countries in the world raise such claims. Such a phenomenon does not appear to be the result of agreements and decisions to jointly put together their respective political lines or individual claims, but emerges because such ideas of political philosophy have been in existence since a long time before, and political parties that set political goals according to such ideas have been established in various countries throughout the world. Of course, there are some differences in their claims, depending upon the unique circumstances of each country, but such claims coincide with one another in the macroscopic direction.

3) In the present case, the Petitioner makes an issue of the Respondent's loyalty toward North Korea. Various assessments can be made with regard to North Korea's current style of management of state

affairs, but it clear that North Korea externally and officially advocates socialistic ideas, and it is true that its political line at least on the surface shows socialistic orientation. Then, it is natural in a sense that claims of the Respondent that originates from the Democratic Labor Party, which proclaimed the succession to, and the development of, socialistic ideals and principles, and still puts up the platform that contains socialistic elements are similar to those of North Korea to a certain degree. In other words, attributing such a phenomenon only to the Respondent's affinities toward North Korea cannot avoid criticism that it is an excessively simplified interpretation.

Meanwhile, the main purpose of the Respondent's scheme for unification by federation, which is suspected to be similar to North Korea's scheme for unification, is that unification should take place by a method through which the South and the North can coexist equally and peacefully. In fact, this scheme is not essentially different from solutions proposed by the Roh Tae-Woo Administration and subsequent administrations and a solution accepted by many political parties and experts in our society at present.

The Petitioner's argument emphasizing its allegation that the Respondent follows North Korea under such circumstances can easily be viewed as oppression of the general progressive ideas on which the Respondent is based. In light of past historical experience where criticism of dominant anti-communist sentiments in Korean society and efforts to take a positive stance towards unification used to lead to suspicions as North Korean sympathizers, it is difficult to deny the possibility of an ideological impeachment against general progressive ideas under the pretext of vigilance against North Korea. The reason why the Progressive Party underwent the cancellation of its registration as a political party and witnessed the capital punishment of its leader helplessly in 1958 was that the peaceful unification theory proposed by the party was contrary to the national policy, and the party had

contacted spies from North Korea. Claims for the realization of revolutionary politics representing the working people, such as laborers and farmers, and the introduction of an exploitation-free economic system were suspected to be identical to those of North Korea. However, the peaceful unification theory was introduced to the Constitution later and is recognized as a natural requisition for unification. In particular, the defendant in the case was acquitted at retrial in regard to the charge of espionage, and the decision on the case also affirmed that the platform and policies of the Progressive Party had no constitutional problem (Supreme Court, Case No. 2008Jae-Do11, Jan. 20, 2011). Today, the case of the Progressive Party of Jo ○-Am remains as a typical example where the government oppressed critics by abusing the system.

In order to prevent critical minds and views in Korean society against the government and power from being frustrated again by vague suspicions of connections or sympathies with North Korea, a mere similarity with North Korea's claims should not be viewed as direct proof of following North Korea.

(2) Whether the Respondent's Activities Violate the Basic Democratic Order

(a) Scope of Review

The Petitioner argues that the Respondent's activities related to the recruitment of persons like Lee ○-Ki, a National Assembly member involved in the alleged rebellion case, and others with records of violating the National Security Act, the vote-rigging case in the proportional representation candidates primary, the violence in the Central Committee, the poll-rigging in the joint nomination of opposition parties' candidate, the throwing of a tear gas bomb by National Assembly member Kim ○-Dong, the joining of public officials and

teachers as party members, etc., violate the basic democratic order. However, the incidents that occurred during the era of the Democratic Labor Party, such as the throwing of a tear gas bomb by National Assembly member Kim ○-Dong, or the joining of public officials and teachers as party members, etc., should be excluded from the subject matters of review in the present case because they had occurred before the formation of the Respondent.

(b) Alleged Rebellion Case

1) Nature of the Meetings at Issue

a) According to the proceedings of the meeting held on May 10 in detail, Kim ○-Yeol, Chair of the Respondent's Gyeonggi Chapter, told Vice Chairs of the Gyeonggi Chapter on April 28, 2013 that it was necessary to hold a lecture on the current situation for former and current party officials of regional chapters and ardent party members in connection with the uniform perception of the current situation on the Korean Peninsula. The 3rd session of the steering committee of the Gyeonggi Chapter decided to hold the lecture on the current situation on May 10, and the lecture on the current situation was finally approved at the meeting of executive officials of the Gyeonggi Chapter on around May 6.

Kim ○-Yeol instructed Kim ○-Jeong, Secretary General of the Gyeonggi Chapter, to arrange a lecturer and venue for a lecture around May 2. Accordingly, Kim ○-Jeong requested Ahn ○-Seop, Secretary General of the Respondent, by phone to arrange a lecturer, and National Assembly member Lee ○-Ki was finally designated as the lecturer. Meanwhile, Kim ○-Jeong asked Kang ○-Heon through Park ○-Wu, Chair of the Farmers' Committee of the Gyeonggi Chapter of the Respondent, to make a reservation for the venue of the meeting, and Kang ○-Heon made a reservation by phone around May 8 at ○○

Youth Training Center for the May 10th Meeting under his name. Meanwhile, the notice of the meeting was given mainly face-to-face by executive officials of the Gyeonggi Chapter, who were members of local councils of the Gyeonggi Chapter, or executive officials of regional committees, by informing them of the place, date, and time of the meeting.

When the lecture on the current situation was about to begin on May 10, Kim ○-Yeol, Kim ○-Jeong, and others convened an emergency meeting of executive officials, and decided to postpone the meeting by reason of insufficiency in preparation for attendees who had brought children, weakness in security, absence or late attendance of some major executive officials such as Lee ○-Ho and Kim ○-Rae, and asked Lee ○-Ki, who was attending as a lecturer, to give a brief introductory remark to the attendees, after explaining the situation to him. So the May 10th Meeting ended in ten minutes after moderator Kim ○-Yeol introduced Lee ○-Ki who then made a short introductory remark. Shortly thereafter, Kim ○-Yeol and other executive officials of the Gyeonggi Chapter held a meeting wherein they heard from Kang ○-Heon who made a reservation for the May 10th Meeting that it would be possible to hold another meeting at a religious institute on May 12, made a decision to hold the meeting on May 12 at 10 p.m., and informed the attendees of the meeting place, date and time in the same manner as before, therefore leading to the May 12th Meeting.

b) At the time of the Meetings at Issue, the Respondent perceived the situation of the Korean Peninsula at that time as a stage in which tension was being relaxed, moving away from the most serious crisis of war, and had converted its system to prepare for medium- and long-term anti-war peace movements, as reviewed above. It appears that some executive officials of the Respondent's Gyeonggi Chapter prepared a lecture on the current situation to strengthen the determination of party

activists and align the party members' perceptions about the situation.

At the Three-person Meeting that Hong ○-Seok had with Han ○-Geun and Lee ○-Yun around May 8, 2013, Hong ○-Seok commented on the current situation with National Assembly member Lee ○-Ki as follows: "Let's hear what he has to say about the current situation and try to reach a consensus. But we have not found a place for the meeting. I will come to Suwon tomorrow. I guess officials of the provincial chapter are trying to find a place. I will have to come to the provincial chapter to find what is going on. I will." Lee ○-Ki mentioned that there had been a request for a lecture at the May 12th Meeting, stating, "It is necessary for our comrades to urgently gather accurate information about the current situation. I think that is why a forum has been arranged and I was asked to attend this meeting." Lee ○-Yun, the informant, testified at the appellate court hearing that, "the meeting at issue in this case was an occasion for a lecture, discussions, and a resolution to secure uniformity in attendees' perceptions about the current situation." Given that the fact of National Intelligence Service officers shadowing Lee ○-Ho was disclosed to party members around January 2013, and the importance of security was emphasized, in addition to remarks mentioned above, it cannot be said that the Meetings at Issue were not for a lecture on the current situation on the grounds that the means taken to give notice of the meetings or the reasons why a meeting was postponed were somewhat unusual.

c) Therefore, the nature of these Meetings at Issue was a closed lecture held by the Gyeonggi Chapter on the current situation, and the Meetings at Issue was an activity of the Gyeonggi Chapter, a regional organization of the Respondent, and therefore becomes a subject matter of review in the present case because most of the attendees at the Meetings at Issue were members and former and current officials of the Gyeonggi Chapter, and officials of regional committees who concurrently held offices of the Respondent as Central Committee members, including

National Assembly members Lee ○-Ki, Kim ○-Hee, and Kim ○-Yeon.

2) Whether Remarks Made during Activities of a Regional Organization of the Respondent Violate the Basic Democratic Order

a) The adjudication on the dissolution of a political party examines whether the objectives or activities of a political party violate the basic democratic order and thus is different in its elements from a criminal case that examines whether an act committed by a member of the Respondent constitutes a rebellion plot or an incitement to a rebellion. If the Meetings at Issue qualify as activities of the Respondent's regional Gyeonggi Chapter and therefore are subject to review, whether such activities violate the basic democratic order, to wit whether the substance and mode of such activities contravene the basic democratic order and present specific threat of causing actual harms to the basic democratic order, needs to be examined.

Meanwhile, the freedom of political expression means freedom in all realms, including freedom of political speech, press, assembly, and association, and this right is an element of the liberal, basic democratic order that takes precedence over the other fundamental rights (Constitutional Court, Case No. 2001Hun-Ma710, Mar. 25, 2004), but the people's sovereignty and political principles of democracy become mere hollow echoes, when the freedom of political expression is oppressed (Constitutional Court, Case No. 2007Hun-Ma1001, Dec. 29, 2011, et al.). However, Article 21 (4) of the Constitution provides that "neither speech nor the press shall violate the honor or rights of other persons, nor undermine public morals or social ethics" to clarify the existence of restrictions on the freedom of expression in connection with relationships with others, and, needless to say, the freedom of expression may be also restricted by legislation under Article 37 (2) of the Constitution, unless no essential aspect of the freedom is violated.

The Meetings at Issue in this case was arranged to conduct activities, such as lectures on the current situation and discussions thereon, and the exposure of tendency of a danger or of possibility of abstract harms does not suffice to hold that such activities of expression, which were merely remarks, violate the basic democratic order; instead such activities must have caused specific danger of substantive harm to the basic democratic order, beyond limits of the freedom of expression.

Considering the limitations of a system for the judicial dissolution of a political party which ought to operate under strict and limited conditions, in order to find the activity qualified as causing a specific danger likely to bring about actual harms, the remarks must have the possibility of being actually implemented, and such danger must be clear and imminent. In other words, if political expressions have no possibility of implementation, or if the proximity between expressions and the danger is remote, it must be concluded that a specific danger of actual harm does not exist. Otherwise, the system for the judicial dissolution of a political party could malfunction by causing serious restrictions on the freedom of political expression.

b) At the May 12th Meeting, Lee ○-Ki emphasized that the Korean Peninsula was in a state of war due to North Korea's declaration of abrogation of the armistice agreement and regarded the United States as the hostile target against which South and North Korea ought to fight together, saying, "The current situation is not confrontation between the South and the North but confrontation between foreign American imperialists and the Korean nation. The reunification of the homeland and the unification revolution can be achieved by autonomous forces of the South and the North. We must face the unification revolution with our new perspective and our understanding about war. What stance should we take? Naturally, we must watch this situation and prepare ourselves self-reliantly and autonomously as

persons responsible for capabilities of the South and the North from such viewpoint of the entire Korean nation, determining to bring an end to American imperialists' invasion and military systems from the viewpoint of the autonomous forces of the South and the North. Peace is not made with peace, and there is no peace, unless we frustrate the invasion and liquidate the structure of violence."

He also justified North Korea's launch of missiles and possession of nuclear weapons, and stressed that preparations should be made for a war against the United States, stating, "What's wrong with shooting when circumstances call for it? Let's shoot! It is reasonable to shoot. Nuclear weapons, what's wrong with it, it is the pride of the nation.... If we form a military unit of comrades, and if our military unit of comrades succeeds in taking the lead in crushing Americans' plots and maneuvers at the decisive stage of fights against Americans in the great history of our nation and finish the noise of military blowouts and play a leading role in entering the coming stage of reunification of the homeland, that is to say, a new stage of the unification revolution, If we can foresee a provocation against the North, regardless of whether or not we expected it, isn't it pretty wise to resolutely prepare our strength and will and crush their provocations, and prepare ourselves for such a stage, making chances for victory? I strongly urge all of you to become the spearhead to hit weak spots in the front in order to make ruptures in their rule and to get ready for combats immediately. The question is, are the comrades here prepared to go into combat mode immediately if ordered to do so. Are you ready for it?"

In his closing remarks, instead of criticizing references to cutting off telecommunications, railroads, gas, and petroleum mentioned by the other attendees during the course of discussions, a One Pistol Theory was mentioned, using examples of easy destruction of pylons and homemade bombs, and information wars, and made additional inflammatory remarks about "mobilizing swift collective power post-haste" any "command for

an all-out attack.”

Meanwhile, moderator of the May 12th Meeting, Kim ○-Yeol, further incited at the lecture by stating, “Let us respond to the United States’ invasive war with the war of justice. The United States’ maneuver for war shows our nation’s common enemy. Let us dedicate ourselves to finish the great war against the United States with our victory.” At the end of the lecture, Lee ○-Ki made a closing remark, saying, “Let us, the Gyeonggi Unit, win the great war we have already engaged against the United States as the great war for reunification of the homeland,” and Han ○-Geun said in the regional discussion session of the South Chapter, “We can even discuss issues, such as whether we will take weapons from police substations at the risk of our lives and whether we will actually make military actions with such weapons.”

In particular, Lee ○-Ho made the most radical remarks, while leading the regional discussion session of the South Chapter at the May 12th Meeting. He led the discussion in a radical direction, introducing an example of a person who carried a knife in preparation against preventive detention at the beginning of the discussion, and mentioned “how to alter gas absorbers of toy guns, a case where a junior high school student in a foreign country made bombs with golf balls by use of the Internet, and issues concerning the destruction of oil storages in Pyeongtaek and cutting off of telecommunications, railroads, gas, petroleum, and so on.”

c) Although the remarks mentioned above were made on the premise of war started by the United States started against North Korea, or where they became subject to preventive detention, the idea that the autonomy groups in South Korea and North Korea will unite to fight against the enemy, the United States, and attack key national facilities in the Republic of Korea are contrary to the general sentiments of contemporaries.

Moreover, it is incomprehensible how a current National Assembly member of the Republic of Korea or an official of a political party could have such perceptions and make such remarks shortly after South Korea and North Korea began seeking reconciliation by emerging from a military confrontation, especially from the crisis of an imminent war.

The key points of Lee ○-Ki's remarks were to observe the current situation from the viewpoint of a Korean revolution by autonomous forces of South and North Korea, make political and military preparations and physical and technological preparations with confidence in victory, participate in the war between the United States and North Korea, and win the war against the United States. Although Lee ○-Ki did not expressly or directly suggest an overthrow of the government of the Republic of Korea, participating in a war between the United States and North Korea against the United States, when South Korea and North Korea currently confront each other militarily, means essentially that they are ready to fight against the government of the Republic of Korea and might result in overthrowing the government of the Republic of Korea by violence. Therefore, the above-mentioned remarks of Lee ○-Ki, Kim ○-Yeol, Lee ○-Ho, and some other attendees violate the basic democratic order by absolutizing their beliefs through use of violence.

d) Even if the remarks made at the meeting at issue in this case violate the basic democratic order, it is necessary to examine whether the danger inherent in the attendees' remarks are practicable, and whether a specific danger exists to cause actual harms to the basic democratic order, and such danger is imminent.

① First, we examine the possibility that all the attendees at the Meetings at Issue could actually implement the violent methods mentioned above.

On the issue of whether all attendees at the Meetings at Issue follow

the *Juche* ideology and North Korea's strategy for a revolution in the South, and belong to an organization headed by Lee ○-Ki, it cannot be concluded that the above-mentioned organization exists or that attendees at Meetings at Issue are members of such an organization as there is no convincing and objective evidence that demonstrates the time and process of forming such an organization, the organization's structure, membership of the above-mentioned 130 persons in such an organization, and their activities carried out according to guidelines of such an organization.

The expression "organization" used in the Three-person Meetings is understood as a word referring to the organization to which they belonged and proves insufficient to acknowledge as a specific secret organization. The term "officials" mentioned by Lee ○-Ki at the May 12th Meeting can be understood as a word that refers to current party officials of the Gyeonggi Chapter. In Jo ○-Won's remark "It is important to establish a perfect command system centered on the leadership and to prepare ourselves for it," which he made while reporting outcomes of the discussion on May 12, the term "leadership" can be understood as major party officials of the Gyeonggi Chapter, and the suggestion to establish a command system demonstrates that they had no command system until that time. Comprehensively reviewing the circumstances as above, it is hard to recognize that the attendees had an organizational body equipped with a command system.

After being detained for the National Democratic Revolutionary Party case, Lee ○-Ki served a sentence of two years and six months imposed by the Seoul Appellate Court, and upon his release from prison around August 2003, founded CNP around February 2005, for the purposes of strategy, planning, publicity for elections. The CNP Group has considerably influenced the strategy of elections of the Democratic Labor Party, as it actively conducted activities, such as the production of materials for election campaigns and strategy consulting services,

according to orders it received in connection with election campaigns of so-called progressive politicians, and Lee ○-Ki has been recognized as a capable planner, having made visible achievements in such activities. Party members and others who conducted activities together with him in the same area for a long time used to call him "president" and it seems that the title was also used at the Meetings at Issue.

In addition to past records of the activities mentioned above, while he underwent electoral fraud in a primary for proportional representatives of the Respondent and other incidents, Lee ○-Ki came to symbolize a person persecuted by the government and the press among the members of the Respondent. In particular, he attracted more attention from local party members of the Gyeonggi Chapter where he was most active, and began to be recognized as a political leader of party members of the Gyeonggi Chapter within the Respondent. He seems to have become more influential since then as he was invited to the inaugural ceremony of the Gyeonggi Chapter on March 24, 2013, to deliver a congratulatory speech. Considering the fact that he has built up friendly relationships with the attendees as a senior in the activist circles operating in the same area for a long time, we can understand the attitude that Lee ○-Ki showed while making remarks at the meeting at issue in this case and the attendees' responses thereto.

In sum, we can find that Lee ○-Ki has a status as a political leader in the area of the Gyeonggi Chapter, but we can hardly hold further that he is the head of a specific secret organization composed of all attendees at the Meetings at Issue.

Meanwhile, during the sectional discussion of the South region, details of which were recorded by an audio recorder, the remarks made by Lee ○-Ho, while presiding over the discussion on the premise that they would become subject to preventive detention in wartime, constituted approximately 70 percent of all remarks made in the discussion of the

South region, and merely 8 to 9 persons, out of approximately 20 attendees at the sectional discussion of the South region, made any remark. Choi ○-Seon, Lim ○-Suk, Hong ○-Gyu, and others, among the speakers, made remarks mostly concerning the establishment of a manual regarding means for communications among members in preparation against preventive detention or methods for securing transportation means, preparing food, and escaping, without mentioning anything related to violence, such as the destruction of facilities.

In view of the facts reviewed above, it is difficult to conclude that all the attendees at the Meetings at Issue agreed to put the violent schemes mentioned at the meetings into action, merely based on the fact that the attendees answered "yes" in response to the question "do you understand?" which Lee ○-Ki asked several times, while giving his lecture, or the fact that they answered "yes" with applause in response to the question "has your faith in ultimate victory been increased by 100 percent?" which Kim ○-Yeol asked at the end of the meeting, absent convincing evidence demonstrating that they had additional discussions for putting the violent schemes into action or made preparations for implementing such schemes.

Therefore, it is difficult to conclude that all the attendees at Meetings at Issue agreed to put the violent methods, such as the destruction of facilities, into action.

② However, comprehensively reviewing the above-referenced remarks and admitted proofs, there is sufficient evidence to demonstrate that defendants in the rebellion-related case, such as Lee ○-Ki, Kim ○-Yeol, and Lee ○-Ho, followed North Korea's strategy for a revolution in South Korea by violent methods. Also, the possibility is not insignificant that the speakers who had suggested specific violent schemes at the Meetings at Issue would put the violent methods into action when given the right circumstances in the future. Although the

time to instigate a riot, or the allocation of roles in the implementation of such schemes were not specified, the targets of the application of violent methods, such as Hyehwa Telecommunications Office and oil storages in Pyeongtaek, and the means for arming, such as the purchase or alteration of guns and the production of bombs, were mentioned in detail at the Meetings at Issue.

Although such remarks were made on the premise of a war caused by the United States against North Korea, or where they became subject to preventive detention, we cannot hold that the danger caused by such remarks is any less because of this. Although the possibility that the defendants in the rebellion-related case or some speakers at the meeting could put the violent schemes into action was rather low, the circumstance was such that despite the decreasing tensions related to the war crisis in the Korean Peninsula, and despite the low possibility that the rebellion-related defendants or speakers would put violent plans into action, possibility exists that they would repeat the meetings in the future given that North Korean provocations were possible and in fact frequent. Moreover, the possibility still exists that the defendants in the rebellion-related case or some speakers could further concretize implementation plans and allocation of roles for instigating a riot, and put such schemes into action when new tension is created in the future. Although the number of persons who agree on such schemes and participate in the implementation of the schemes may be small, we cannot ignore the possibility of the paralysis of functions of the government of the Republic of Korea or the overthrowing of the government by attacks to key facilities in wartime or in the imminence of war, and thus they may become actual and specific threats to the basic democratic order.

e) Even if the probability is low that all attendees at the Meetings at Issue will put the violent methods mentioned in the discussions into action, the defendants of the rebellion-related case, such as Lee ○-Ki,

Kim ○-Yeol, and Lee ○-Ho, or the speakers who suggested specific violent schemes at the meeting at issue in this case showed the possibility of putting such schemes into action during the Meetings at Issue, and we acknowledge that they can probably repeat similar meetings in the future in the situation of the Korean Peninsula, where military tensions are frequently repeated, gather forces, and put a specific riot into action. Therefore, speeches given at the Meetings at Issue are not simple remarks but pose a specific danger that will actually undermine the basic democratic order, and thus they violate the basic democratic order.

3) Activities of Local Organizations or Some Party Members and Liability of the Political Party.

As reviewed above, the nature of the Meetings at Issue was a lecture on the current situation, which was held by the Gyeonggi Chapter, a local organization of the Respondent, and the meeting poses a specific danger that could actually undermine the basic democratic order. However, in order to hold that the whole of the Respondent is liable for the danger posed by the activities of one of its local organizations to the basic democratic order and that such a danger is a ground for the dissolution of the Respondent, we should be able to find that such activities have been conducted in accordance with the basic political line of the political party in order to accomplish purposes of the political party, or that such activities have been repeated but the political party has not taken any measure to discontinue such activities, or that the party has actively supported such activities by approving them at the level of the political party as a whole, and the establishment of the line of the political party has been affected by such activities.

a) Respondent's basic line related to peace and unification of the Korean Peninsula

The Respondent inherited and further concretized the line of the Democratic Labor Party in its founding and amended platforms, which proclaimed to "put an end to confrontation and enmity caused by the division of the nation, build an autonomous state of a unified nation with reconciliation and peace, and accomplish autonomy, peace, and unification for the great unity of the nation so as to improve the people's lives and make both South Korea and North Korea prosper and advance."

The Respondent declares in the preamble of its platform that it will "establish a nuclear-free, peaceful regime on the Korean Peninsula and accomplish autonomous, peaceful reunification," and pronounces its basic line of peace and unification of the Korean Peninsula in the main body of its platform by providing that it will "replace the armistice agreement with a peace agreement and establish a nuclear-free peace regime on the Korean Peninsula and Northeast Asia as early as possible" and "respect the spirit of the July 4th South-North Joint Statement and the Inter-Korean Framework Agreement, perform the June 15th Joint Declaration and the October 4th Declaration, and pursue autonomous, peaceful unification." According to the Respondent's <Collection of Commentaries on Platform>, "a nuclear-free, peaceful regime" is to establish a peaceful order on the Korean Peninsula where the root of the danger of a nuclear war is eradicated and the crisis of war does not exist by simultaneously realizing the denuclearization of the Korean Peninsula and the execution of a peace agreement, while it explains the term "autonomous unification" as the establishment of a unified regime for coexistence and co-prosperity by realizing reconciliation, cooperation, solidarity, and unity between our people in the South and in the North without intervention of foreign powers in accordance with the June 15th Joint Declaration and the October 4th Declaration, as reviewed above.

Around April 10, 2013, Party Representative Lee ○-Hee had an emergency press interview to urge "North Korea to stop the test launch

of missiles and military actions and the Republic of Korea, the United States, and Japan to refrain from making military responses that might trigger a war in full scale," and the Respondent conducted people's action campaigns, such as online activities through social network services, activities for propagation, and special programs for the "declaration of cessation of the war through the four party conferences," the "execution of a peace agreement," etc., from the middle of April 2013 onward in response to the situation at that time. It can be held that such activities of the Respondent have been based on the Respondent's basic line.

b) Whether the attendees at the Meetings at Issue seized control of the Respondent

With the remarks made at the meeting at issue in this case and related proofs, it is highly probable that the defendants in the rebellion-related case, including Lee ○-Ki and Kim ○-Yeol, among the attendees at the Meetings at Issue, are followers of North Korea and sympathize with North Korea's theory of a revolution in the South.

However, as stated above, we cannot hold that the 130 or so attendees all followed North Korea's strategy for a revolution in South Korea given the absence of any evidence to show the types of activities engaged by them, and even if we can hold that they have followed North Korea's strategy, based on the fact that the attendees mentioned above responded positively to violent schemes mentioned during the discussions, there is no convincing evidence that demonstrates that all party members of the Respondent sympathized, or acquiesced to the overthrowing of the government by violence and the realization of North Korean socialism.

Compared with the size of the entire political party, such as the number of party members of the Respondent, metropolitan/provincial

chapters throughout the country, and regional committees throughout the country, the number of the attendees mentioned above was very small. Aside from the National Assembly members, the only persons in attendance at the Meetings at Issue who could be considered major party officials of the central party were one spokesperson and one Chair of the Election Management Committee, and even if members of the Central Committee may be viewed as major party officials, the number of Central Committee members in attendance at the Meetings at Issue numbered at 11 belonging to the Gyeonggi Chapter of the Respondent. Considering the number of attendees at the Meetings at Issue, and the Respondent's system for making decisions at the level of the whole political party, we can hardly hold that the above-mentioned attendees' remarks represent the opinion of the entire political party.

In particular, Lee ○-Ki stated during the May 12th Meeting that, "We don't have the leadership from the center chapter of the party. It does not matter whether or not you are an assembly member. Ignore whatever title you have," to show that he did not give a lecture at the meeting as a National Assembly member. Moreover, he blamed the Respondent's Party Representative's official position, stating that "Last time, when the Korean Peninsula was in a critical situation with a sharp tension, some people in the central party urged that no missile should be launched. Together with the Party Representative at that time. Do you remember? Don't you have any idea about it? It is very important. A press interview was held in the name of Lee ○-Hee, urging not to shoot missiles. That is a typical case that shows one-sided bias in the point of view on the current situation." Additionally pointing out the case where some officials of the Respondent went to Yeonpyeong Island to make a "three steps, one bow" pilgrimage, he kept a distance from the Respondent's stance, criticizing them, "They made a 'three steps, one bow' pilgrimage over there to ask the North not to shoot. The North intentionally refrains from shooting. I don't understand why they did the 'three steps, one bow' pilgrimage to ask the North not to attack

us. That is a kind of bias." Moreover, answering a question from Hong ○-Seok, he said, "In light of historical experiences and the process developed so far in the Korean Peninsula, the end will be determined by military means. We have to resolutely prepare ourselves for that. An armistice agreement or a peace agreement, is it so important?"

Such remarks drastically contravene the basic line of the Respondent who insists that it pursues the establishment of a nuclear-free peace regime on the Korean Peninsula and Northeast Asia and autonomous, peaceful unification by replacing the armistice agreement with a peace agreement. Besides, such remarks are contrary to the stance that the Respondent's Party Representative Lee ○-Hee showed while holding an emergency press interview on April 10, 2013, urging "North Korea to stop the test launch of missiles and military actions and the Republic of Korea, the United States, and Japan to refrain from making military responses that might trigger a war in full scale" and also contravene the Respondent's guidelines for activities for anti-war and peace, such as the people's action campaigns conducted in response to the situation at that time. Considering the existence of numerous party members who perform their activities according to the party's platform and its basic line, it cannot be concluded that all the attendees centered around Lee ○-Ki, who held positions contrary to the Respondent's line, then seized control of the whole of the Respondent to then exercise influence over the Respondent's policy-making process.

Although Lee ○-Ki won more than 10,000 votes out of approximately 36,000 votes cast online in the primary for candidates for proportional representatives, it had happened before the Meetings at Issue, and given that it does not appear that all these voters supported Lee ○-Ki because they agree with the violent schemes discussed during the Meetings at Issue, the election results alone cannot equate to mean that the meeting attendees hold hegemony over the Respondent.

Moreover, as we will examine later in connection with the electoral fraud in the primary for candidates for proportional representatives, it is difficult to conclude that the attendees at the meeting intentionally, systematically, deliberately seized control of the Respondent in the course of electing Lee ○-Ki and Kim ○-Yeon for candidacy.

c) Whether the Respondent approved or supported the Meetings at Issue

As reviewed above, the Respondent argued that the National Intelligence Service fabricated the rebellion-related case, vigorously continued to criticize the prosecution of the case, responding to the prosecution in full strength at the level of the political party, and nominated some of the attendees at the Meetings at Issue as candidates for municipal elections.

However, the Respondent does not raise an objection to the investigation and punishment of defendants for the crimes disclosed by the prosecution in the rebellion-related case. What the Respondent criticizes is the authority's position of prosecuting these defendants for conspiracy of a rebellion, despite the fact that the actual nature of the Meetings at Issue is not conspiracy. I cannot conclude that the Respondent's argument is wrong in light of the doctrine of presumption of innocence, because trials on the rebellion-related cases are still ongoing.

Meanwhile, there were the following circumstances worthy of consideration in relation to the Respondent's argument and objection that the rebellion-related case has been fabricated, or that it constitutes unlawful governmental oppression of the Respondent.

At the time of the investigations into the rebellion-related cases, the National Assembly was conducting its Investigations Hearing into allegations of intervention by the National Intelligence Service into the

Presidential Election, and a considerable portion of the transcript of secret audio recordings made by the informant had been distributed to the press without any corrections of any errors even before the trial in the rebellion-related cases had begun. Even organizations and individuals other than the Respondent pointed out that the investigation of the rebellion-related case was conducted in order to distract attention away from the National Intelligence Service, or that it was unreasonable to apply the charge of conspiracy of insurrection under the Criminal Code to the rebellion-related case, in lieu of a violation of the National Security Act. Shortly before August 28, 2013, when investigations into the rebellion-related case began openly, including search and seizure of the suspects, on August 22, 2013, the court acquitted a defendant in an "espionage case of a public official of Seoul Metropolitan Government," and the legality of using secret audio recording of conversations and lectures, an unusual practice in criminal cases but a major basis for starting the investigations into the rebellion case, became an issue.

Moreover, although the Respondent's Party Representative and others used provocative words like "fabrication," we can hardly blame the Respondent for vigorously objecting, given that a considerable portion of the transcript of the audio recording underwent corrections during trial; the transcript of the audio recordings prepared by the investigation authorities had many errors that were not insignificant, such as transcribing "the degree of preparations" erroneously "regular warfare," or "*Jeoldusan* Shrine" as "a holy place for a decisive battle," and "every kind of opportunism" as "communism."

The Respondent argued at the time that, amidst allegations of interventions into the Presidential Election by the National Intelligence Service and the Prosecutor's Office, the prosecutors, with the intent to oppress the Respondent, brought indictments against the Respondent on charges of conspiracy for rebellion or incitement of insurrection, using evidence from illegal investigations and surveillance of the Respondent,

and based on activities that do not qualify for any conspiracy or incitements. In other words, the Respondent argued that activities of the party's National Assembly members and other members did not constitute conspiracy, etc., and it is fully permissible to deny the charges of the commission of felonies by its National Assembly members and party members while trials are pending.

Furthermore, the Respondent's reactions, of converting its entire organization into combat headquarters to respond against the charges with full force at the level of the entire political party, were acceptable conduct given the gravity of the case which could seriously endanger the very existence of the political party, and such reactions cannot be equated to affirmation or approval of the remarks made at the Meetings at Issue by the Respondent.

In addition, most of the officials of local committees of the Gyeonggi Chapter who faced no indictments or investigations, should not be excluded from the nomination of candidates for municipal elections merely on the ground that they attended the Meetings at Issue, and the Respondent's nomination of these candidates similarly cannot give grounds to conclude that they approved or advocated the remarks made at the Meetings at Issue.

Therefore, I cannot hold that the Respondent recognized the Meetings at Issue as an activity conducted with an aim to accomplish purposes of the political party or that it neglected to take any measure against the meeting or approved the meeting at the level of the entire political party.

4) Sub-conclusion

The Meetings at Issue were arranged by officials of the Respondent's regional Gyeonggi Chapter to present a lecture on the current situation to party members, etc., of the Gyeonggi Chapter, and the remarks made by

Lee ○-Ki, Kim ○-Yeol, or Lee ○-Ho, defendants of the rebellion-related case, or the speakers who suggested specific, violent schemes are likely to cause a specific danger of actually undermining the basic democratic order.

However, such remarks made by Lee ○-Ki and others differ from the Respondent's basic line, and it cannot be concluded that the attendees at the

Meetings at Issue seized control of the Respondent as a whole, or that the Respondent approved the Meetings at Issue or remarks made at the meeting, or that the Respondent is liable, at the level of the entire political party, for the contravention of the basic democratic order by the Meetings at Issue or specific activities conducted by the attendees at the meeting.

(c) Vote-rigging Case in the Primary for Proportional Representation Candidates and Other Activities at Issue

1) The outline of the electoral fraud case in the primary for candidates for proportional representatives is as reviewed above in connection with the Respondent's history. It is clear that the Respondent's party officials responsible for conducting and managing the electronic balloting, are gravely liable for the incident; despite awareness of the possibility of proxy voting, they remained obsessed with increased voter turnout and gave up taking technical measures to control proxy voting, even failing to prepare any regulations prohibiting proxy voting. Even if proxy voting, etc., were also committed by other factions in the party or have taken place even in other political parties, such excuses cannot justify or mitigate the liability for the faults mentioned above.

However, the evidence submitted by the Petitioner do not suffice to find that the Respondent attempted to nominate candidates recommended by a specific faction as proportional representatives by committing the above-mentioned acts in an organized manner, and intending to destroy

democratic procedures of the party.

Although internal competition for candidacy for proportional representatives is not a necessary process under the Political Parties Act, the Respondent required candidates for proportional representatives to be elected through an election. The procedure for electing candidates for proportional representatives was not determined arbitrarily by key members or a major faction of the Respondent at present, but was prescribed by the party's constitution established on December 5, 2011, according to the agreement made by groups that participated in the formation of the party. The agreement shows that the system for electing candidates for proportional representatives by competitions was designed to realize democracy within the party. Moreover, comprehensively reviewing the following facts do not lead to the conclusion that the Respondent deliberately instructed, acquiesced, and supported electoral fraud: Party Representative Lee ○-Hee conceded responsibility for poor management and apologized for that matter at the meeting of co-representatives on May 3, 2012, resigned from her office of co-representative on May 12, 2012, and held a press interview to assure that the party would amend the internal election system so as to realize the principles of universality, equality, directness, and secrecy in elections; and the Respondent amended its regulations on elections, and formulated measures to prevent the recurrence of electoral fraud by requiring advance registration of IPs in places where overlapping IPs are inevitable, such as offices of trade unions, and prohibiting the use of an IP not registered in advance by more than five persons.

2) The outline of the violence that occurred at the Central Committee on May 12, 2012 is as reviewed above in connection with the Respondent's history.

It is clear that the interruption of the decision-making process within the party by violence contravenes the demand for internal democracy of

the party, and the above-mentioned incident incurred heavy criticisms from both inside and outside of the Respondent, that the Respondent committed senseless conduct to severely damage the cause of progressivism it advocated, and that it did not possess the ability to change by purifying itself.

However, the Respondent's members who exercised violence numbered in the minority, and no evidence demonstrates that, beyond supporting a particular candidate, these members formed an organization that seized party hegemony. Moreover, it cannot be concluded that the Respondent actively advocated such violence when the Respondent's Party Representative Lee ○-Hee officially apologized for the violence incident during a press interview on September 3, 2012, stating, "I painfully concede that the violence that occurred in the Central Committee on May 12 disappointed many party members and citizens. My silence and self-restraint that began shortly after the incident were the minimum actions I could take in a position to take ultimate liability for such incident. I apologize to party members and citizens for the incident."

3) As reviewed above in connection with the Respondent's history, in the opinion poll-rigging case of the opposition parties' joint nominations election, charges against the relevant candidate, Lee ○-Hee, was dropped on the ground of insufficient evidence, and those who were prosecuted numbered only a few. Accordingly, it cannot be concluded that members of the Respondent committed the opinion poll rigging under the initiative, plan, or acquiescence of the Respondent.

Moreover, in her apology statement immediately after the revelations about the above-mentioned electoral fraud, Lee ○-Hee expressed her opinion that it was necessary to reprimand the persons involved in the fraud, and thus it cannot be concluded that the Respondent ratified or advocated the opinion poll-rigging even after the fact. The above-mentioned opinion poll-rigging cannot be imputed as one of the

Respondent's activities.

4) In the end, the above-mentioned fraudulent conduct and violence were deviations of some members who supported particular candidates, and thus it is difficult to find that such conduct was based on the Respondent's policy line, or to impute such conduct to Respondent's activities, or to hold that such conduct undermines the basic democratic order as an expression of basic attitude hostile to democracy.

(d) Recruitment of persons with past records of violating the National Security Act

As we have already reviewed above in connection with the purposes of the Respondent as a political party, it cannot be concluded that the Respondent owes a duty to restrict qualification for a party member or a party official on the ground of their past records. Although many key party officials of the Respondent, had past records of violating the National Security Act, and the Respondent did not take any action to remove such officials, such action or inaction of the Respondent does not constitute active recruitment of persons who have past records of anti-government activities or activities collaborating with the enemy, and which brings about a specific danger of inflicting substantial harm to the basic democratic order.

(e) Sub-conclusion

The Meetings at Issue and the remarks made by Lee ○-Ki and others at that meeting are not merely normal speeches but can bring about a specific danger that will actually undermine the basic democratic order. However, the Respondent is not liable for such activities, because such activities were contrary to the basic line of the Respondent as a whole, and evidence does not suffice to find that the basic line has been affected by such activities.

Meanwhile, the individual activities of some members of the Respondent, such as the electoral fraud in the primary for proportional representatives, the violence incident in the Central Committee, and the rigging of the opinion poll for the joint nomination of a single candidate of opposition parties, undermined the internal democracy of the party, did not respect the principle of democratic decision-making, or violated positive laws. However, considering the fact that the Respondent as a whole did not conduct the above-mentioned activities systematically, deliberately, actively, and continuously, and that the Respondent has been engaged in routine activities as a political party as other political parties do, except the activities reviewed above, and the fact that our society has imposed criminal punishment upon actors and political liability upon the relevant political party with regard to infrequent electoral frauds or crimes committed by party officials to date, evidence does not suffice to hold that the above-mentioned activities were based on the Respondent's basic political line or that the above-mentioned activities significantly affected the Respondent's basic line and will bring about a specific danger that will actually undermine basic democratic order. Besides, I cannot hold that the Respondent actively and intentionally recruited persons who have past records of violating the National Security Act so as to support anti-government activities or activities collaborating with the enemy.

In conclusion, the Respondent's activities examined above do not violate the basic democratic order.

D. Whether the Principle of Proportionality is Satisfied (Whether the Respondent Must be Dissolved)

Even if the objectives or activities of the Respondent violate the basic democratic order as in the opinion of the Court, constitutionally

justifying the dissolution of the political party requires a finding of necessity.

(1) Significance of the Principle of Proportionality in Adjudication on the Dissolution of a Political Party

As examined above, taking into consideration the provisions of Article 37 (2) of the Constitution, the limitations accompanying the exercise of state power affecting citizens' interests in a constitutional state, and the nature of the system for judicial dissolution of political parties as a remedy of last resort or a supplementary means, even if all requirements expressly provided for in Article 8 (4) of the Constitution are fulfilled, a decision to dissolve a political party could be constitutionally justified only where no alternative means exist to address the alleged unconstitutionality of the political party, and where the social benefit that could be gained through the decision to dissolve the political party exceeds the disadvantage of restricting political party's freedom of activities and the social disadvantage incurred by such a serious restraint on a democratic society.

(2) Whether Necessity to Dissolve the Respondent is Recognized

(a) A decision to dissolve a political party is not that effective in accomplishing the originally intended purposes.

The effect of a decision to dissolve a political party is confined to the realm of party politics. The members or supporters of a dissolved party who share ideology and beliefs with it are also members of this society, and cannot be ousted as citizens. It is still possible, though with limitation, for them to espouse and support the same ideology as the dissolved party or try to communicate the validity of the ideology to acquaintances in daily lives. What is impossible is to eliminate the thoughts of the party members or supporters who shared ideology and

beliefs with the dissolved party. To wit, even if a political party is dissolved, it is impossible to rid the society of the ideology of the party from this society, and thus the danger intended to be removed through the dissolution of the party cannot be fundamentally removed.

Moreover, while a decision to dissolve the party has the effect of barring the establishment of any other political party that pursues the same ideology or activities with those of the dissolved party, questions exist on the actual effectiveness of this prohibition.

In today's democratic country where election functions as a means of judging politics, it is hard to imagine a political party pursuing values in outward violation of the Constitution. This is particularly true in a democratic country where the possibility of judicially dissolving unconstitutional political parties is institutionally guaranteed. Under these circumstances, the objectives pursued by such a political party would be covert or ulterior ones, and if so, it would be crucial to find out the ulterior objectives behind the stated platform or covertly pursued regardless of the platform.

However, even if the ulterior objectives of a political party are successfully uncovered and the party is effectively dissolved on the ground of unconstitutionality, there still remains another problem. To wit, when the leading groups of the political party declared to have violated the basic democratic order intend to re-establish a new political party, they will not attempt to create a party with the same ulterior objectives that have already been declared unconstitutional. It is reasonably expected that the party to be established will have, and operate under, a platform different from the platform or ideology on the ground of which the party has been previously dissolved, i.e., a platform that is constitutional at least on the surface. In such a case, the party would be free from an unconstitutionality issue regarding its objectives or activities at least at the time of its creation, and thus regardless of its subsequent

pursuit of ulterior unconstitutional objectives, there is no way of banning them from establishing the party at least at the stage of its creation. This is because their official operation has yet to commence, and even if they have ulterior objectives violating the basic democratic order, no materials by which their objectives can be identified and ascertained would exist at the time. Of course, they could come under suspicion that they might be pursuing the same objectives since they are the same people, but such a suspicion would be a mere allegation or vague assumption, and would not constitute an objective and legal judgment based on concrete evidence. A person's values can always change, and it is not impossible for a person's world view yesterday to be different today.

So the social benefits that could be attained through the decision to dissolve the Respondent could be smaller than what anyone might expect. On the contrary, the social detriment caused thereby could be large enough to undermine the proper functioning of a democratic society.

First, the involuntary judicial dissolution of a political party imposes material restrictions on the freedom of political parties and the principle of its autonomous decision-making, which are two of the most important elements of democracy.

Political parties play an essential role in today's representative democracy, and citizens can have actual influence in state's policy-making through political parties. Therefore, the decision to dissolve a political party, which denies existence of a certain party, above all, entails a serious restraint on the freedom of the political party.

Moreover, dissolution of a political party is to deny constitutional legitimacy of a particular ideology or activity of the political party and to deprive its ideology, etc., of the status as a political opinion that can

be recognized as one legitimate political stance under the Constitution, and thereby seriously restricts the freedom of political association, of citizens who support such political opinion, to form, join or engage in the activities of, a political party. This is highly likely to lead to the demolition of an important foundation of the principles of democracy under which the political will of a community should be formed through autonomous political process.

Second, the decision to dissolve the Respondent could undermine the diversity of thoughts that must be pursued and protected by this society, and in particular could seriously constrict the political freedom of minorities.

To advance democracy further in our society, it is necessary to be more open to political views that do not conform to the political ideology of the majority. While freedom of political expression is important to everyone, it is particularly significant to the political minorities. On the part of the political majority, it is highly likely that even without necessarily expressing their political views their political will is already widely shared and instituted as a policy in the society and that there is always someone else representing their views. On the contrary, for political minorities, there would be no opportunity to have their voice meaningfully transmitted unless they express directly or act on their views. This society has an obligation to guarantee them the opportunity to express their will, and a greater necessity to have the so-called progressive parties to act as their political representatives.

Also, minority opinions in society are essential to maintain sound majority views. It would be fortunate if the mainstream view in society is always right, but the society in which various human beings dwell is never free from potential fallacies. Minority opinions are like a mirror to look at and reflect on majority views, revealing whether any of the majority views have flaws and, if so, in what aspect it is flawed.

Therefore, a mature democratic society must also treat the opinions that are seemingly rebellious, unacceptable or at times disturbing to the majority or can be disregarded as useless, as valuable resources that can save this society from potential fallacies. Of course, there could be some political views that appear to be unworthy of consideration and even harmful, and for which compelling silence seems to be more appropriate. However, to suppress them, considering the chilling effect entailed by suppressing such views, such as the effects of discouraging citizens from expressing political opinions, critiquing established political ideologies, and seeking alternative ones, and political parties from critiquing the Government, the adverse effect entailed by suppressing seemingly unreasonable political opinions far outweighs the harm caused by such opinions.

Like many species that make up the beauty of nature, political parties supported by minorities are also the political assets that make political capacities, imagination and democratic practice in this society more diverse and abundant. Just as the conservation of diverse species is important in nature, the preservation of diverse ideas is also important in a democratic society. Therefore, for growth of democracy in this society, it is necessary to make sure that the ideas of minorities are not suffocated and annihilated under mainstream views in the name of numerical superiority as a majority and the general sentiment.

Among the numerous ideas that are the product of the unlimited imagination of humans, not a few ideas have become universally accepted over time, although they were initially dismissed as meaningless and absurd. For instance, the notion that all humans are equal, which is accepted as a matter of course today, was rejected in the past even by great scholars like Plato and Aristotle, and was ostracized as an idea disturbing the social order until just one hundred years ago on the Korean Peninsula. Likewise, history shows that it is unwise to judge and confine the boundless possibility of the future, an age that has yet to

come, by a yardstick of the present. A reckless utilization of a decision to dissolve a political party could lead to a tragic result, even if the decision is based on good intention and cause which is to protect the Constitution against injustice.

Third, a decision to dissolve the Respondent could also seriously affect the true unity and stabilization of Korean society.

When a certain political party is involuntarily dissolved, the ideology of the party can no longer be discussed in the realm of party politics, and thus the citizens who still support the ideology lose their right to legitimately realize what they believe in through the party. In such a situation, the expected result would be that the members or supporters of the party ordered to be dissolved would abandon their political beliefs, or change political beliefs and choose another political party, or go underground to continue activities based on their beliefs. In particular, for those who have solid political beliefs and choose to go underground, the decision to dissolve the party could serve as a signal that the only means available to them is an illegal one. Such a situation is likely to force them to make a more radical political choice, and compared to a situation in which they are within the framework of a political party operating in public in a legitimate space, it is more likely to undermine the unity and stabilization of society. Even if the party has some members who are likely to resort to illegal means, if to the extent that the party intends to operate legally, it would be desirable for the society to encourage the party's stance for the legitimate operation so that the possibility of illegal activities within the party could be minimized within the party.

Meanwhile, to the citizens who are conservatives, legalizing a radical political party might seem dangerous, but it would be worth noting that paradoxically, the perfection of conservative order in a post-war era in neighboring Japan was possible because of the legitimate presence of

socialist and communist parties.

In sum, while the benefit that can be gained through a decision to dissolve the Respondent is relatively small, the detriment entailed thereby, to wit the restraint on freedom of political association, freedom of political opinions, or freedom of thought, and the hindrance to the unity and stabilization of society are much greater. Therefore, the decision to dissolve the party could only be justified in a limited situation with a pressing need to attain the small benefit, to wit, when there is an overwhelming necessity for involuntarily dissolving the party that far outweighs the detriments caused thereby.

(b) As reviewed above, the defendants in the alleged rebellion case and the persons who proposed concrete schemes for violence at the Meetings at Issue can be considered to have committed an act against the basic democratic order. However, those who committed such act are at most the 130 persons or so who attended the May 12th Meeting, and even assuming that all of those sympathized with Lee ○-Ki, and were forming a "small group following Lee ○-Ki," there are a far greater number of the members of the Respondent who have nothing to do with those. This fact must also be taken into consideration.

The majority of ordinary party members, who were not notified of, nor given a chance to identify ulterior objectives pursued by Lee ○-Ki and others involved in the alleged rebellion case at the time they joined the party, cannot be found to have been fully aware of or agreed with said ulterior objectives. Although the number of active dues-paying members of the Respondent plummeted after the two splittings of the party (41,444 as of November 2012, and 29,844 as of January 2013), it is still a considerable number. Even if there is a substantial number of those who are staying simply because they did not bother to go through the formalities of officially leaving the party, the members of the Respondent still amount to 100,000 in total. It would be reasonable to

view most of those members as those who joined the party in sympathy with the activities of the party that had been working for the socially disadvantaged and the minorities in this society since the founding of the Democratic Labor Party as the forerunner of the Respondent, and with the progressive line embodied in the platform. The Democratic Labor Party and the Respondent as the successor thereto have been representative progressive parties advocating for the expansion of welfare and the necessity for economic democracy in the political arena. The universal welfare policies that they initiated, such as their policies on public education, public food service, public medical service, etc., have greatly affected policies of both the ruling party and the main opposition parties, and some of them have been adopted by such parties. It would be safe to say that economic democratization proposed by strong candidates from the ruling and the opposition parties as one of their key pledges for the 18th Presidential Election in 2012 serves as one such example of society accepting a progressive party's proposal.

Likewise, it is hard to deny that social progress in this country is in part thanks to the progressive policies that have been proposed by these parties to date since the foundation of the Democratic Labor Party, and this was probably the reason why the majority of the current members of the Respondent decided to join this party. If the Respondent is ordered to be dissolved on the ground of the deviant behavior of Lee ○-Ki and a few other party members despite such fact, it would not only halt the progressive line and activities of this party, but would also result in distorting the political will of the majority of its ordinary members and placing a stigma on them by branding them as members of an unconstitutional party.

As examined above, it cannot be found that the Respondent has ulterior objectives and that the Respondent was led by a small group following Lee ○-Ki, even assuming the existence of such group as alleged. In the case the small group following Lee ○-Ki is small in

number but exerts a considerable influence on the party's policy-making process by exercising power as a cohesive organization, the danger to democracy in Korean society could be substantially removed simply by excluding this group of people who have been taking advantage of the Respondent for the purpose of realizing an unconstitutional ideology that violates the basic democratic order.

The Korean legal system allows criminal punishment of anyone attempting to cause harm to society under the Criminal Code, etc., Also, as a safeguard against North Korean ideology to protect the basic democratic order, there is the National Security Act. The potential abuse of such legislation has been persistently pointed out and there have actually been a few cases of abuse in Korean history. Yet, it is this Court's view that such legislation is not contrary to the Constitution to the extent that it is enforced through strict interpretation of the requirements for application, by limiting the application thereof to cases posing an obvious danger to liberal democracy so that citizens' fundamental rights would not be unnecessarily restricted (Constitutional Court, Case. No. 89Hun-Ka113, Apr. 2, 1990).

Accordingly, if there is any group among the members of the Respondent with an intent to subvert the basic democratic order of the Republic of Korea, sympathizing with North Korea's theory on revolution in the South, it is possible to effectively exclude such group from Respondent's policy-making process by invoking the Criminal Code, the National Security Act, etc. If some members of such group are National Assembly members and have been engaged in active operation to attack the state order, taking advantage of their position, the National Assembly has an option to investigate and expel them (Article 64 (3) of the Constitution).

In sum, our legal system makes available a number of measures to exclude any group aspiring to realize an ideology contrary to the basic

democratic order from the Respondent's policy-making process. Rendering a decision to dissolve the Respondent without fully understanding the purpose and the function of those measures would cause a more-than-needed, excessive detriment.

(c) While the necessity of the system for dissolution of unconstitutional political parties is recognized, the system should be used as a last resort and a supplementary means, and thus the matter of whether to dissolve a political party should be in principle left to public political forums.

Democracy resolves public conflicts and determines the stance of the national community on social agenda through an autonomous political process. It would be appropriate, in principle, to have the political party undergo free and fair elections and other democratic political process, through which it could naturally become isolated or excluded from the political sphere while the unconstitutional elements of its objectives and activities are seriously debated and, as a result, the party loses its support base. This is based on the belief that oppression of freedom or unreasonable bad practices can be ultimately corrected in the court of history under public rationality.

If so, the decision to dissolve a political party should be rendered as a last resort and a supplementary means, only where the danger posed by the political party cannot be removed naturally by an autonomous and democratic political process and emerges as an imminent and serious threat to the democracy of this society.

Meanwhile, in the 6th local election on June 4, 2014, the Respondent won only 3 seats for proportional representatives in metropolitan/ provincial councils (each in Gwangju, Jeonbuk and Jeonnam), 31 seats for municipal council members (1 in Busan, 9 in Gwangju, 9 in Ulsan, 1 in Gyeonggi, 1 in Chungbuk, 4 in Jeonnam and 6 in Gyeongnam), and

3 seats for proportional representatives in municipal councils, and gained about 4.3 votes for the party for metropolitan/provincial proportional representation. Such outcome is in stark contrast with the 5th local election held on June 2, 2012, where the Democratic Labor Party, as the forerunner of the Respondent, won 3 seats for municipal mayors, 24 seats for metropolitan/provincial council members and 115 for municipal council members. Also, according to an opinion poll recently (December 2014) reported by a media outlet, the approval rating for the Respondent is 2.8 percent, and this result can be interpreted as what has been brought about by the criticism and debates that have taken place in public political forums after commencement of the proceedings of the present case.

(d) Freedom of expression is the freedom to express opinions different from the mainstream view, and freedom of thought is the freedom to pursue thoughts different from the mainstream view. Liberal democracy is more wary of a forced orderly stability attained through formation of a single unified opinion, than liberal chaos created by the co-existence of seemingly conflicting ideas and expressions. To wit, it is a belief that tolerating the confrontation among random and conflicting political views and the resulting inconvenience or disadvantage ultimately produces a greater social benefit. The "social benefit" in this context means a condition more suitable to realize the autonomy of individuals and the idea of democratic politics, and for all members of this society to enjoy values as dignified human beings. Therefore, an attempt to oppress a certain idea or view on the ground of an unspecified danger, sense of ideological difference or emotional discomfort is one of the greatest fallacies that must be avoided in a liberal democratic society.

For the Republic of Korea, North Korea is an anti-state organization but is at the same time a partner for dialogue and cooperation for peaceful unification. The citizens of the Republic of Korea have a duty not to lower their guard against North Korea, as an anti-state

organization and a duty to broaden understanding of North Korea as a partner for dialogue and cooperation, and exchange and cooperate with it. Emphasizing only one of these two duties does not conform to the relationship with North Korea envisioned by the Constitution.

Meanwhile, North Korea is one of the poorest countries in the world, has never been recognized as a legitimate player in international politics under the East Asian political order and is also isolated from the international community. Another reality is that North Korea criticizes the Sunshine Policy, the trust-building process on the Korean Peninsula and the Dresden Declaration as tactics for absorptive unification and at the same time fears absorption into South Korea due to the significant gap between the South and the North in national power. To wit, in view of today's reality where regime competition has become meaningless since the fall of communism, and the gap between the South and the North in economic and national power, etc., North Korea is no longer an entity that has the capacity to overthrow the current regime of South Korea. If this is the reality facing Korean society, it would be wiser to take a longer and more active stance or view toward the North.

(e) After all, the social detriment caused by the decision to dissolve the Respondent seems to outweigh the public interest that can be gained. Moreover, the social danger posed by Lee ○-Ki and others involved in the alleged rebellion case can be substantially alleviated by imposing criminal punishment, etc., and the political debates that have been taking place in Korean society after filing of the petition in the present case show that a substantial degree of autonomous criticism and political checks are already underway.

Comprehensively taking into consideration the circumstances examined above, the judicial dissolution of the Respondent does not satisfy the principle of proportionality as a ground for constitutional justification of the dissolution of a political party.

E. Conclusion

(1) While Koreans hope for peaceful coexistence and unification in the reality of national division, the threat of war is very much alive today. Korean society is experiencing overall polarization and a deepening ideological confrontation.

This first-ever case involving the dissolution of a political party in the Korean constitutional history is a grim and sobering reminder of the history of progressive parties on the divided Korean Peninsula, and ultimately the essence of democracy and the meaning of the system for the judicial dissolution of political parties.

(2) In today's party politics, a progressive party usually refers to a political party with socialism or social democracy as its ideological basis. These ideologies recognize the graveness of the contradictions of capitalism today, and the pressing need to solve such contradictions for the human race. For such reasons, in modern days where capitalism has long been established as a universal economic order for mankind, political parties pursuing critical ideologies such as socialism or social democracy still exist in many countries, and sometimes become a ruling party and have similar voices regarding particular social conflicts. They also share a critical stance toward, and are seeking alternatives to, neo-liberalism.

However, the presence of progressive parties in Korean society has not been too prominent so far.

By branding progressive ideas as an attempt to collaborate with North Korea, the support base and critical power of progressive parties could be conveniently neutralized. After the extreme confrontation between the left and the right after liberation from Japanese colonial rule, and the

subsequent division of and the fratricidal war between the South and the North gave rise to anti-communism, which had a significant impact on the overall Korean society. Socialism or social democracy was equated with North Korea's communism and ostracized by voters, reducing the presence of socialists and social democrats in Korean society. Also, the case of the Progressive Party led by Cho ○-Am, whose registration was cancelled on a vague and groundless charge of collaborating with North Korea, negatively affected the movements of next-generation progressive parties.

At the same time, under legislation prohibiting political activities, election campaigns and political donations by labor unions, the working class was unable to form a party representing its political and economic interests. This was in part because of the lack of class identity among laborers and internal rifts within the labor movement camp.

Then, labor movement circles saw the necessity to form an independent political power to respond to the legalization of lay-offs. Also, as the prohibition of political activities, etc., by labor unions was lifted around that time, the Democratic Labor Party was formed in 2000.

The Democratic Labor Party entered the National Assembly in 2004, and its approval rating from an opinion poll once reached 20 percent. It proposed a number of progressive policies, such as the expansion of welfare and economic democracy for Korean society. Its welfare policies, such as public education, public food service, public medical service, etc., have greatly affected the policies of both the ruling party and the main opposition parties. In the 18th Presidential Element of 2012, economic democratization was proposed by strong candidates from the ruling party and the opposition parties as one of their key pledges. This fact is one example where a progressive party's proposal was adopted.

Meanwhile, the Democratic Labor Party split in 2008 as a consequence

of conflicts over internal hegemony and political lines, and the Democratic Labor Party, the People's Party, and those who left the New Progressive Party, jointly formed the Unified Progressive Party, the Respondent, at the end of 2011, as grand progressive consolidation proposed by the Democratic Labor Party and civic society gained wide support. The Respondent won 13 seats in the 19th General Election and gained considerable support from citizens. However, the party failed to reform itself by properly investigating the vote-rigging case in the primary for proportional representation candidates taking impartial countermeasures, and the Respondent came under heavy criticisms from the public and progressive social activists after the shocking violence at the Central Committee meeting. Moreover, the Respondent failed to settle the issue of expelling Lee ○-Ki and Kim ○-Yeon, proportional representative members of National Assembly, in connection with the vote-rigging case in the primary for proportional representation candidates and was eventually split again.

Moreover, the remarks made by Lee ○-Ki and a small group supporting Lee ○-Ki, who attended the May 12th Meeting, were utterly unacceptable to the public sentiment, and have in fact led the Respondent to face this adjudication on its dissolution.

However, it is necessary to examine whether there is an inevitable need to mobilize the means of last resort, the adjudication on party dissolution, in addressing a party that has a record of leading propagation of the liberal agenda in Korean society. Although striking a balance like the right and left wings of a flying bird would be impossible, progressive parties are the assets of society keeping it in check so that the frame of debates in this society does not resemble a tilted scale. Therefore, ways for progressive parties to contribute to advancement of democracy and realization of social unification and stability must be seriously contemplated.

(3) Since the suppression of the May 18th Democratic Uprising in 1980, the mainstream of political and social movements has criticized the line of reform through compromise with state power and believed that it would be impossible to make change to the strong authoritarian regime, unless they became more radical and revolutionary. The so-called NL and PD lines that emerged under these circumstances constituted slogans for struggles and rhetoric.

However, since the amendment of the Constitution in 1987, democracy in Korea has been consolidated with the gradual progress of democratization and democratic changes of the government. Besides, with the fall of socialist regimes in the Soviet Union and Eastern Europe in the 1990s, extreme revolutionary lines could no longer gain the support of the general public. Reflecting these social conditions, the NL and PD lines have also been gradually revising their basic lines and erasing revolutionary radicalism and extremism. With greater exposure to social democracy or liberal equalitarianism, a branch of liberalism, developed in Europe, the idea that it is possible to democratically and institutionally realize the system or ideal that they aimed for, has increasingly gained ground, and this led to the progressive party movements.

As such, the Democratic Labor Party can be seen as a combination of the NL and PD lines, having abandoned their previous revolutionary lines and committing themselves to change the world by seizing power through elections, and they were called the Autonomy Faction and the Equality Faction within the party, respectively. While sharing views on many issues, their stances differed on some issues, such as North Korean issues, the scope of solidarity or alliance, and the orientation toward socialism, which at times led to conflicts, or struggles over hegemony, between factions within the party.

The Autonomy Faction in the Democratic Labor Party stressed national

cooperation and peaceful unification from the perspective that problems in Korean society stemmed from contradictions of the nation, and showed the firmest attitude to understand North Korea's position in the political circles, and for such reasons was at times thought to be "pro-North." Its passive or reserved stance over a number of issues, such as nuclear issues, human rights and three-generation power succession in North Korea, for which expressing criticism seem only natural from the view point of "progressivism" or common sense of the general public, drew a lot of criticism. However, such silence should not be taken as an expression of followership.

(4) I would like to ask whether the determination in the opinion of the Court that the objectives of the Respondent, led by the Autonomy Faction, is first to realize progressive democracy through violence and then ultimately realize North Korean socialism is the outcome of strict interpretation and application of the grounds for adjudication on the dissolution of a party. This question concerns whether facts have been found on the basis of compelling and conclusive evidence, whether overall context has been fully taken into consideration in interpreting various publications that served as reference for judgment, whether the inference based on facts conforms to the rule of thumb or logic and is free from logical leap, whether the when-in-doubt-choose-freedom principle was complied with, whether unprocessed "puzzle pieces" have been used, and thus whether it can be assured that ulterior motives were found, not manufactured.

Now, I would like to point out some problems in the opinion of the Court.

The opinion of the Court defines the Leading Group of the Respondent, identifies its ideological aims, and then finds the meaning of progressive democracy that it perceives. With that reasoning, the Court concludes that its objective is to first realize progressive democracy by

violence, and then to ultimately pursue socialism through unification, which, in view of the alleged rebellion case, is North Korean-style socialism.

However, this inference is based on an ambiguous term, the "leading group." Above all, it does not provide a definition for "leading the party." It is not clear whether this means leading day-to-day operations of the party, the decision-making structure of the party, or over the nomination of candidates in party elections.

In addition, the scope of the leading group is not clear. According to the opinion of the Court, the leading group includes key former members of the East Gyeonggi Alliance, the Gwangju-Jeonnam Alliance, and Busan-Ulsan Alliance, which were occupied by members of the Democratic Revolutionary Party or organizations under the guidance of the Democratic Revolutionary Party, and party members who share an ideological aim with them. However, such members of the Democratic Revolutionary Party and the organization under the guidance of the Democratic Revolutionary Party are not clearly identified by convincing and clear evidence, and no standard for identifying key members of the East Gyeonggi Alliance, etc., has been presented. Moreover, it is not clear how such key members and other party members share their ideological aims. In conclusion, the individual members or the extension of the leading group are not clearly defined.

And then the opinion of the Court attempts to infer the ideological inclination of the leading group. In order to infer the present ideological inclination or aim of the leading group, current activities or remarks made by the group must be examined as the main ground for judgment. Past behaviors or past criminal records should be used as supplementary evidence only to the extent necessary for understanding and assessing the meaning of current activities and remarks. However, the opinion of the Court examines past and current thoughts and beliefs of members of the

Respondent relying upon facts presented in the judgments made at least ten years ago in criminal cases concerning violations of the National Security Act and on testimonies of persons who have not had direct contact with members of the Respondent for a long time. For example, among the persons identified by the opinion of the Court as members of the Democratic Revolutionary Party, an anti-government organization, or members of an organization affiliated to the party, and members of an organization under the guidance of the Democratic Revolutionary Party, etc., include persons who have never been prosecuted and investigated in connection with the Democratic Revolutionary Party case, but the opinion of the Court identifies them as those involved in the Democratic Revolutionary Party by reason that they were mentioned in the judgment for convictions or that there were testimonies to that effect in this case and holds that they have intention to align themselves with North Korea on the background of their activities.

Of course, I do not completely deny that some members of the Autonomy Faction who have not relinquished, and still adhere to, the *Juche* ideology exist in the Respondent. However, in order to find that the *Juche* ideology in which a person believed in the past is internalized within the person at present, the person's current activities must demonstrate that the ideology the person cherished in the past still remains within the person, like the remarks made by Lee ○-Ki at the May 12th Meeting. To wit, his current activities should be analyzed objectively first, and such activities should be examined comprehensively together with past activities so as to find internalized beliefs and principles at present. Any person's ideological aim and thoughts should not be concluded indiscreetly without conducting such a minimum analysis.

A person's thoughts may change. Empirically, thoughts in one's younger days change as they age. The trends of the times change as society changes and technology develops, and such changes bring

changes in contemporary awareness. It is incorrect to infer that the change is real only where one expressly denies their past thoughts or beliefs, but deny the change absence such declared conversions. If one intends to infer that way, convincing proofs must be produced.

Even if it was inevitable to infer thoughts and ideologies of members of the Respondent unexpectedly in the process of finding what the purposes of the Respondent were, it is necessary to fully explain the reasons why the Court rejects the Respondent's arguments thereon so as to ensure accuracy and strictness of fact-finding and reasoning for the opinion of the Court.

(5) As a citizen, I can hardly comprehend the remarks made by Lee ○-Ki, Kim ○-Yeol, Lee ○-Ho, and others at the May 12th Meeting. Even if such remarks were made on the premise of a situation that ordinary people can hardly imagine, such as where the United States starts a war against North Korea or where they could become subject to preventive detention in wartime, the idea that they would fight against the United States, a party to the armistice agreement, jointly with North Korea, or attack key national facilities of the Republic of Korea goes against universal sentiment and the common sense of the people.

However, such absurd ideas or beliefs of Lee ○-Ki and persons who supported Lee ○-Ki, which go against the Respondent's basic line, are just their beliefs only and cannot be held as purposes of the party.

I can hardly understand the opinion of the Court, which concludes that the beliefs or purposes of Lee ○-Ki or the persons who belong to a small group supporting Lee ○-Ki are ulterior objectives or genuine objectives of the political party. The establishment and amendment of the platform of a political party are subject to resolution at the Party Convention, and many party members, as well as many supporters, recognize that the written platform is the platform of the political party.

The Respondent grants the power to make decisions to party members, representatives of party members, and Central Committee members according to its constitution and charter so as to prevent personal decisions of Supreme Council members and National Assembly members from being adopted as they are. The Democratic Labor Party and the Respondent have made decisions by a majority vote among party members after going through internal debates and meetings since they were formed. If there is a political party in which one-man rule is acceptable and one person actually holds control of the decision-making structure of the party, the inference made in the opinion of the Court is possible. However, the opinion of the leader in a popular political party should not be regarded as the opinion of the political party.

Nevertheless, the opinion of the Court holds that North Korean socialism found in the remarks of Lee O-Ki, etc., which were disclosed in the rebellion-related case, is the purpose of the Leading Group of the Respondent, and "the hidden purpose" or "real purpose" of the Respondent. This conclusion is tantamount to identifying as anti-government, the Respondent itself, all party members as members of an anti-government organization, and the people who supported the Respondent as supporters of an anti-government organization. Moreover, it is tantamount to an official recognition that party members who belong to the leading group defined by the opinion of the Court are subject to criminal punishment under the National Security Act. In view of a German case where the decision to dissolve a communist party was made according to an application filed for adjudication on the dissolution of the political party and approximately 125,000 persons involved in the communist party were then interrogated, out of whom 6,000 to 7,000 persons were criminally punished and were removed from their places of work, and became subject to restrictions on social activities, no one can assure that this decision will not result in branding similar red stigmas in our society.

(6) People's sovereignty advocated by the Respondent means that the Respondent will represent the interest of the working people, the people who form the foundation of classes and strata of the Respondent and actualize the people's sovereignty. The Respondent's criticism of liberal democracy and the people's sovereignty is simply against *laissez-faire* political and economic phenomena under which the principle that sovereignty resides in the people under the Constitution fails to be actualized, and a minority is allowed to enjoy privileges, but does not deny fundamental human rights or the principle of democracy. Besides, the autonomous economic system oriented toward people's livelihood, as insisted by the Respondent, is a system proposed to strengthen the state's regulation and adjustment for democratic control of the market and the realization of social welfare and justice, and does not contradict the economic order under our Constitution. 'Progressive democracy' advocated by the Respondent is a socialistic platform in a broad sense, which partially embraces socialistic ideals and values, but does not contravene basic democratic order. The Respondent seeks the seizure of power by elections and does not insist on the seizure of power by a violent revolution or by a violent means.

(7) I cannot help but worry that the decision to dissolve a political party, which purports to defend democracy, becomes a momentum that degenerates the democracy that has progressed constantly since the amendment of the Constitution in 1987, and diminishes the flow of rational progress for balance in our society in the recent situation where some signs indicate the regress of democracy.

The weak tradition of progressive parties which represent minorities or the socially disadvantaged and advocate their interests seems to be one of obstacles that interrupt a qualitative stride of democracy.

Without respect towards a political party that represents the socially disadvantaged, the political interests of the disadvantaged in the society

will be hardly recognized as public values. Compared with many countries that have a long history of democracy in the West, it was inevitable for democracy to have limitations in our society where the political role of a progressive party was weak.

Although the Respondent's ideas are supported by a few persons and make some people shake their heads at a glance, it cannot be emphasized too much that such ideas are also resources that develop the political capabilities of this society. Moreover, it is more so, if we take into consideration the facts that such ideas originate in the strong intellectual tradition that has been handed over through the history of human intelligence, and form a political position constantly used through diverse variations even today.

As is well known, countries that broadly embraced and accepted a wide variety of views and new ideas through the ages and around the world have flourished, while countries that closed their doors and stuck to a single idea eventually declined. The sea gets deeper as it accepts all small contributory streams. Democracy is like the sea, in that its essence is the embrace of various ideas.

As long as the principle of rule of law, which serves as an axis of this country's constitutional order, is not abandoned, individuals and groups that undermine national security should be punished basically by strictly enforcing criminal procedures. As long as we do not belittle the principle of democracy, which serves as another axis of our constitutional order, it is proper to sternly berate a political party for wrongdoing through political judgment of elections.

Moreover, irrespective of deviations of some party members who breached the party's basic line, we cannot deny the Respondent's capability of self-criticism, ceaseless changes, and potentiality of development.

It can be said that accommodating the Respondent's voices in our forum of public opinions is the real spirit of democracy centered on tolerance and diversity. One who intends to protect the basic democratic order should not forget where he can find the superiority and advantages of the basic democratic order.

When searching for the path this society should take with the search light called the Constitution, it is possible to find the spirit of "autonomy and harmony," which is the basis and foundation of the basic democratic order, established on the two axes of democracy and the rule of law. This is the fundamental spirit of the preamble of the Constitution. In a desolate reality where "reasonable conservative" and "reasonable progressive" are hardly visible and people throw harsh words against one another everywhere, this is the teaching that our Constitution gives to those who long for "unification of the society" and "reconciliation" in their true meanings.

(8) I think that the petition for adjudication on the dissolution of a political party in the present case should be dismissed as it fails to meet the requirements for the dissolution of a political party under Article 8 (4) of the Constitution. This is not to grant indulgence for problems of the Respondent or advocate the Respondent but to avoid the destruction of the achievements of democracy and the rule of law, which we have persevered for a long time, declare our resolute trust in the constitutional order of the Republic of Korea, and protect the essence of the spirit of the Constitution.

10. Supplementary Opinion of Justice Ahn Chang-Ho and Justice Cho Yong-Ho to the Opinion of the Court

We would like to critically review some arguments of the Respondent and those of the dissenting opinion, and supplement the grounds for the opinion of the Court.

A. The Respondent and the dissenting opinion insist that progressive democracy has no hidden purpose or genuine purpose, other than those stated in the written texts, such as, "The Unified Progressive Party does not deny or reject the capitalist class. Democracy is based on the basic elements of an equal right to vote and equal right to be elected. (A progressive democratic society) is a new alternative economic regime that overcomes the subordinate, neo-liberal system, and it is the main goal of the system to abolish the economic system mainly driven by foreign investment and exportation and oriented toward *chaebeol* (conglomerates) and to change it to an economic system mainly driven by domestic investment and domestic demand and oriented toward small and medium-sized enterprises."

Despite the variety of the term, social democracy or socialist democracy is generally defined as an ideological trend that pursues ideas and principles of socialism in a progressive manner (without denying capitalism per se) through politics of parliamentary democracy, not by a violent revolution or proletarian dictatorship, to keep up with the expansion of suffrage and the development of democracy. According to "20 Questions and 20 Answers about the Platform of the Unified Progressive Party," the ideological spectrum is divided into socialism, progressive democracy, social democracy, and neo-liberalism in the named order according to the intensity of the nature of socialism, with social democracy as a reform within a capitalistic regime and progressive democracy as an ideology that drastically overcomes capitalism.

"Progressive Democracy in the 21st Century," observes, "Some people might raise questions, like whether there seems to be no problem because the way of social democracy is on the premise of maintenance and preservation of capitalism. However, if it is the case, it is not different from progressive liberalism because it will be impossible in fact to eradicate exploitation and plundering of capitalism and neo-liberalism. ... (Omitted) ... The limitations of socialist democracy nearly coincide with the limitations of progressive liberalism."

Examining the above-mentioned assessment of the Leading Group of the Respondent on social democracy more clearly reveal the differences between social democracy and progressive democracy.

Most policies on economic, social, and cultural affairs according to the Respondent's platform (such as control of the volatility of international speculative capitals, implementation of policies for growth based on domestic demand, realization of redistribution of income through tax reforms and expansion of finance for low-income citizens, establishment of food sovereignty, abolition of the economic system oriented toward *chaebol* and economic democratization, fostering of small and medium enterprises, social enterprises, etc., and diversification of the structure of ownership, realization of public education and establishment of a free education system, realization of free medical service focused on public medical service, liquidation of developmentalism and introduction of an ecological government management system, expansion and development of economic cooperation between the South and the North, and establishment of an environmental community of the South and the North) seem to be policies that can also be implemented according to ideas of social democracy.

By contrast, in comprehensively reviewing "The Report on Strategies for Seizing Power," and "Progressive Democracy in the 21st Century," we find that the Leading Group of the Respondent argues that

neo-liberalism is the principal perpetrator of political and economic inequality; the code that can solve the problem is the establishment of a new alternative regime, which corresponds to the class struggles and political problems, and the current political and economic structure oriented toward *chaebol* and the privileged class should be demolished to build a progressive democratic regime, the political and economic structure oriented toward the people. Likewise, the difference between the progressive democracy advocated by the Leading Group of the Respondent and social democracy becomes conspicuous in that the new alternative regime should be established by demolishing the current political and economic structure.

As stated in the opinion of the Court, the progressive democratic regime advocated by the Leading Group of the Respondent is an interim regime that aims to reform the liberal democratic regime to pursue a socialist regime (North Korean-style socialist regime), by removing elements of the liberal democratic regime temporarily tolerated in order to establish a unified front and intensifying the character of socialism as the regime gets stronger. "What is the Platform (30 Questions and 30 Answers)," urges the "nationalization of key industries," as the symbol of an autonomous democratic regime, different from socialist democracy, in the higher stages of progressive democracy, and argues that the issue of class liberation should be solved in a progressive democratic society by gradually intensifying regulations of the capitalist class. We can also find many arguments to the same effect from articles written by Park ○-Soon, Kim ○-Min, Lee ○-Hun, and others, as examined in the opinion of the Court.

In the end, progressive democracy advocated by the Leading Group of the Respondent differs from socialist democracy, and just because they urge measures that could be implemented within the 'current' socialist democracy, it cannot be concluded that the Leading Group of the Respondent, which supports progressive democracy with intent to

drastically overcome capitalism, has no hidden or genuine purpose to establish a new alternative regime by reforming (revolutionizing) our society to ultimately pursue North Korean-style socialism.

B. With respect to the doctrine of people's sovereignty, the Respondent argues that the adverse conflict lies not between the "sovereignty" of a privileged minority class and the people's sovereignty, but rather between the "privileges" of the privileged minority class and people's sovereignty, and that abolishing privileges of the privileged minority class in order to actualize the people's or a nation's sovereignty does not contradict the doctrine of national sovereignty.

However, as reviewed in the opinion of the Court, the Leading Group of the Respondent limits the sovereignty to the people, prescribes a hostile relationship between certain specific classes of people and targets these classes for reforms or regulations, and therefore the doctrine of people's sovereignty advocated by the Leading Group differs from the doctrine of national sovereignty, which considers all citizens as holders of sovereignty.

Meanwhile, the doctrine of such people's sovereignty, i.e., the doctrine under which the people are divided into actors or targets of reforms, and the people's or the national sovereignty is actualized by abolishing privileges of the privileged minority class, just seems to mean that the sovereignty of the people (or the proletariat) is established through the people's democratic revolution (or proletarian revolution) and the people's democratic dictatorship (or proletarian dictatorship) in the people's democratic state, and thus differs from the doctrine of national sovereignty under the Constitution.

As reviewed in the opinion of the Court, Kim ○-Min's comment that "the 'revolutionary strategy of the people's democracy' (for Korean

society) is a strategy designed to fit the characteristics of a divided state by reconstructing the 'revolutionary strategy of people's democracy,' which is a general 'revolutionary strategy of socialism' in a semi-colony, colony, or a colonial state at the imperialistic stage," Kim ○-Young's assessment that "progressive democracy in the line of autonomy, democracy and unification is identical with North Korea's theory of people's democracy," Choi ○-Yeop's remark that "communism is not expressly mentioned (in the platform), but it is implied here in altogether ," etc., support the aforementioned judgment.

The Respondent argues that, although it expressed its intention to establish an "autonomous democratic government of which working people are the owners," to realize a "progressive democratic society in which the people become the genuine owners," and to open a "world where the working people are the owner" in its platform, it merely defined the class that it would fully or mainly represent by this expression, because a political party could not represent all classes, but it did not mean that sovereignty would be recognized only to such extent.

It is certainly possible and desirable, in light of the functions of political parties under the Constitution and the freedom of political parties, that a political party is willing to reflect the interest of particular people fully or preferentially in its basic ideology or policy for the interest of the state as a whole or for public interest. However, if a political party considers the protection of interest of a particular class as the ultimate objective, instead of as a means or process for the interest of all the people, and shows hostility to the rest of the people, such attitude does not conform to the doctrine of sovereignty of the people. As reviewed in the opinion of the Court, the Leading Group of the Respondent seems to exclude some particular groups from the scope of holders of sovereignty because it concedes that it excludes "the privileged ruling group from the scope of the people and limits the

scope to the people who contribute to the development of the society and the advancement of history." Therefore, we cannot agree with the Respondent's argument that popular sovereignty is a concept for simply representing the interest of a particular class called "people."

C. It is found that the Leading Group of the Respondent advocates so-called "people's dictatorship."

(1) As reviewed in the opinion of the Court, the Leading Group of the Respondent perceives our society as "an upside-down society, a subordinate, pariah capitalist society, a violent, oppressive political regime, a regime for subordinate neo-liberalism, imperialistic domination and plundering, a regime for plundering the people and exploiting labor, an undemocratic (autocratic) regime, colonial semi-capitalism," etc., and emphasizes the "realization of democracy" as a task under the platform for the reform of our society, along with the autonomy of the nation (autonomy) and reconciliation (unification) of the nation.

In "Progressive Democracy in the 21st Century," the author argues, in relation to "realization of democracy," that we cannot talk about sovereignty nor discuss "democracy" without solving the problem of structural inequality of political power. That is a problem requiring extensive reform that should be accompanied by structural reform of the existing political and economic structure. That is a task requiring the taking of power from the hands of the privileged ruling group and returning it to the people who are genuine owners of power," and insists that, "in order to 'realize (progressive) democracy' and set up the people's power stably, an autonomous democratic government should abolish the political and economic structure that outdated politics may reproduce by altering the obsolete political and economic structure into a 'democratic' form, and it should control the privileged ruling class, which is an 'anti-nationalistic, anti-democratic political group.'" This

book also insists that, in order to establish a "democratic society" where the principle of popular sovereignty is realized, it is required to demolish the Alliance between the Republic of Korea and the United States, the National Security Act, and pro-American conservative alliances interwoven with collusive links between politics and businesses and reform and regulate foreign powers, pro-American conservative groups, extreme conservative groups, outdated military groups, etc., which maintain this regime. Furthermore, the book states that "the reform of the obsolete governance structure should be actualized through revolutionary measures, such as the abrogation of unequal treaties, the abolition of the National Security Act, the dissolution of anti-democratic security agencies, the formulation of statutes and systems for drastically eradicating collusive links between politics and businesses and between political power and the press (enactment of the Illegality and Corruption Punishment Act, democratic amendment of the Political Funds Act, democratic amendment of the Political Parties Act and acts regarding elections, and enactment of the Regulation of Anti-Democratic Journalism Act), and the enactment of the Protection of Democracy Act (fact-finding investigations and punishment of anti-democratic acts, punishment of anti-democratic perpetrators, dissolution of anti-democratic parties and prohibition of activities of such political parties)." The document entitled "20 Questions and 20 Answers about the Platform of the Unified Progressive Party" also emphasizes regulation of foreign powers and extreme conservative groups.

Meanwhile, as reviewed in the opinion of the Court, the Leading Group of the Respondent insists that, in order to establish a progressive democratic regime and advance toward a socialist regime through a reform (revolution) of the people's democracy, it is necessary to win fierce struggles against the existing exploitative class, such as extreme conservative groups, to seize power, reform the obsolete governance structure, and block their attempt to recover power.

In summary, the Leading Group of the Respondent perceives Korean society as "a liberal democratic regime," "a neo-liberal regime," or "a capitalist regime," and "an upside-down society" where a privileged ruling minority class rules, exploits, and plunders the majority of people politically and economically, regards taking sovereignty from the hands of the privileged ruling minority class and returning it to the people who are genuine masters and reforming the upside-down, obsolete governance structure as "the realization of democracy," and deems that acts of opposing or resisting such actions or enforcing and solidifying the existing obsolete governance structure are anti-democratic. They also insist that the obsolete governance structure, including the National Security Act and the pro-American conservative alliance, should be reformed so as to realize democracy and systematically and structurally establish a progressive democratic regime under which the people's power can exercise sovereignty and outdated political groups, including foreign powers, pro-American conservative groups, and extreme conservative groups, should be regulated and removed. In other words, the progressive democratic regime advocated by the Leading Group of the Respondent means the people's government under which sovereignty or state power resides in the people and can be used as a means for oppressing the classes hostile to the people (i.e., capitalist class or privileged ruling class).

According to Marxist-Leninism, the word "dictatorship" refers to the means for oppressing the entity that possesses sovereignty or state power and the hostile classes.

Moreover, given the fact that the Leading Group of the Respondent insists on a reform (revolution) of national liberation and people's democracy or a reform (revolution) of people's democracy in order to establish an alternative regime for our society in addition to the facts examined above, we find that the progressive democratic regime advocated by the Leading Group of the Respondent refers to a society

where class dictatorship falls within the category of proletarian dictatorship or "people's dictatorship," as reviewed in the opinion of the Court.

Ju ○-Hwan, a former Chair of the Policy Committee of the Democratic Labor Party, said in a press interview with ○○ *Ilbo* (Feb. 20, 2008), "If we call NL the followers of Kim Il-Sung, PD (except social democrats) can be called followers of Park ○-Yeong. I think both factions have the same identity. I mean the stances they take on the 'Proletarian Dictatorship Theory' are the same." Lee ○-Hun (a person involved in the *Ilsimhoe* case), a member of the Respondent's Party Members Education Committee, insists in "The Party's Ideological Aim for Seizure of Power and Reform," that the NLPD Line, i.e., the National Liberation People's Democracy Line declared by the Autonomy Faction advocating progressive democracy, will be carried out by a proletarian dictatorship regime, commenting, "The title 'Autonomy and Equality' has double meanings. It means the basic tasks of the NLPL Line, liberation of the nation and liberation of classes. The NLPD Line is a line that combines problems of the nation and the problems of classes and solves both of the tasks by one PT dictatorship regime one by one." Jo ○-Won, President of ○○ Research Institute, defined at the "Korea International Forum" that the popular regime to be established by progressive democracy would be a proletarian dictatorship. The above arguments and the comments of Kim ○-Min, Kim ○-Yeong, Choi ○-Yeop, etc., reviewed earlier support the above judgment.

(2) As reviewed in the opinion of the Court, the legal status and the social status of a citizen under a progressive democratic regime depend upon whether the citizen belongs to the people or to the extreme conservative group, etc., It means that the people's equality is replaced with the people's separation, the people are divided into the class who has political control (people) and the class subject to regulation (the extreme conservative group, etc.,) and individuals become eligible for support from the state or subject to regulation by the state, according to

the class to which they belong. In the progressive democratic regime, certain fundamental rights, such as the freedom of political expression and the freedom of election of the extreme conservative group, etc., are restricted under the pretext of the "realization of democracy" for the reform of the capitalist regime, the stable establishment of the progressive democratic regime, and the preparation for a socialist regime. A political party or a non-governmental organization that opposes and resists the progressive democratic regime or carries through and supports the political and economic structure of liberal democracy may become subject to regulation as an anti-democratic political group, the plural party system and the freedom of political parties become meaningless, and the separation of power become a formality only. As reviewed in the opinion of the Court, the Leading Group of the Respondent might overthrow the liberal democratic regime by violence in order to realize a progressive democratic society.

Conclusively, as held in the opinion of the Court (in the light of the fact that the Leading Group of the Respondent seized control of the Respondent), not only North Korean socialism, the ultimate goal of the Respondent, contravenes the basic democratic order under our Constitution, but also progressive democracy, the primary (interim) goal of the Respondent, contravenes the basic democratic order under our Constitution.

D. With respect to unification by federation, the Respondent argues that we are unable to attain unification, unless the people want it, because a federal government will be formed and a unified constitution will be established by a general referendum held in both the South and the North to establish a unified state, and insists that its ultimate goal is not the realization of a North Korean socialist/communist regime.

According to the Report on the Strategies for Seizing Power, "The

autonomous democratic government by the people will be a progressive democratic government in the South, which will form and perfect the Federal Republic of Korea," "if the 'people' choose the same type of regime as the societies in the South and the North develop and regimes are merged after unification by federation, the states can be unified into a single republic of one nation, one regime, and one government," and "whether the unified state will attain the unity of regimes and develop into one nation, one regime, and one government is an issue to be solved according to the choice of 'holders of sovereignty' of the unified state." It is necessary to look into the nature of the autonomous democratic government that will form and perfect the Federal Republic of Korea and the participants in the general referendum in the South and the North, which will determine the nature of such government.

The Report on the Strategies for Seizing Power insists that, once an agreement is made for the so-called loose form of federation, the constitution of the Federal Republic of Korea will be established and then the forms of regional governments in the South and the North will be changed according to the constitution and that our Constitution will introduce the "constitution of the autonomous democratic government oriented toward the people," while North Korea's constitution will introduce the "constitution of the socialist government," and the constitutions will be merged into the Constitution of the (Federal) Republic of Korea (merged into an alternative regime). In other words, it insists that since North Korea has already been based on the socialist constitution, that an autonomous democratic government and the constitution for the realization of progressive democracy should be established in South Korea through a reform (revolution) of national liberation and (people's) democracy, and then the merger of the regimes in the South and the North should be promoted. As reviewed in the opinion of the Court, the autonomous democratic government (which will carry out the formation of the unified state and the merger of regimes) will be a government based on popular sovereignty, distinguished from

the people's sovereignty and a regime that will regulate extreme conservative groups, conservative parties, etc., In the autonomous democratic government that will realize a progressive democratic society, the holders of sovereignty will not be citizens but will be the people in the concept of class, from which extreme conservative groups, etc., will be excluded.

After all, the general referendum in the South and the North, which is suggested by the Leading Group of the Respondent, means a referendum in which only "people," from whom the extreme conservative group, etc., are excluded as those subject to reform, can participate, and the government that will form and perfect the unified state will be an autonomous democratic government that will realize a progressive democratic society. Taking into consideration the legal system and reality of the *Juche* ideology under which the opinion of the nation is determined according to the opinions of Kim Jung-Un, the head of the North Korean socialist regime, and of the Workers' Party of Korea in North Korea, in addition to the facts reviewed above, we find that a general referendum in South Korea and North Korea will not properly reflect the opinions of all our people precisely, and we cannot expect that such referendum will reflect opinions of the residents in South Korea and North Korea justly, even if a unified state is formed by merging regimes after a unified constitution is established and a federal government is formed by a general referendum in the South and the North. Then we cannot accept the Respondent's proposal made on the premise that the general referendum in the South and the North will properly reflect the opinions of the residents of the South and the North.

E. One insists that there is no constitutional problem, even if a person suggests the Federal Republic of Korea in the form of a federal state, because Kim Dae-Jung, a former President, proposed unification by federation, and the June 15th Joint Declaration declares that "for the

achievement of reunification, we have agreed that there is a common element in the South's proposition of a confederation and the North's formula for a loose form of federation. The South and the North agreed to promote reunification in that direction."

Of course, a suggestion for reunification of the Korean Peninsula by federation will not be held unconstitutional. However, judgment on whether a suggestion for a federation is contrary to the basic democratic order of the Republic of Korea may vary, depending upon the purposes and contents of the suggestion, even if the same word "federation" is used in such suggestions, and, thus it is necessary to examine the purposes and contents of the suggestion for federation.

According to the three-phase unification plan proposed by Kim Dae-Jung, a former President, a political regime in the form of a "confederation of the South and the North in one nation, two states, two regimes, two independent governments, and one confederation" should be set up at the first stage, a political regime in the form of "one nation, one state, one regime, one federal government, and two regional autonomous governments" at the second stage, and the "Presidential System" or a political regime in the form of the federation of the United States or Germany at the third stage. This plan conforms to the basic democratic order under our Constitution, since it requires that the following conditions should be satisfied in order to enter the second stage of the federal state: North Korea should be democratized by introducing the plural party system, the free election system, etc.; the South and the North should accept the political regime of liberal democracy; and North Korea should accept the market economy system so as to form an economic community of the South and the North, and thus we cannot hold that it is contrary to the basic democratic order.

According to the Roh Tae-Woo Administration's plan for the unification of the Korean national community and the Kim Young-Sam

Administration's plan for the unification of the national community, a confederation of the South and the North will be formed, while South Korea and North Korea maintain different systems and regimes respectively, a social, cultural, and economic community will be built up, while recovering the homogeneity of the nation, and finally a unified state will be formed by the liberal democratic regime of the Republic of Korea. According to the June 15th South-North Joint Declaration, the South and the North recognize that there is a common element in our government's proposal for a South-North confederation on the above-mentioned conditions (one nation, two political entities, two regimes, two governments) and North Korea's proposal for a loose form of federation (one nation, one state, two regimes, two governments) and agree to promote reunification in this direction. We cannot hold that the declaration is contrary to the basic democratic order under our Constitution only on the ground of such clauses. Rather, the clauses can be interpreted that a unified state that conforms to the basic democratic order under the current Constitution will be formed on the basis of the recognized common element of proposals from South and North Korea for unification.

On the contrary, the suggestion of the Leading Group of the Respondent is distinguished from the proposal of former President Kim Dae-Jung for unification by federation and the stance taken by our government on the June 15th South-North Joint Declaration and provisions thereof, since the Leading Group of the Respondent insists on unification by federation as a means for reforming our liberal democratic regime and ultimately aims at a North Korean socialist regime through a progressive democratic regime. Therefore, the suggestion of the Leading Group of the Respondent for a federation is unconstitutional, even though the proposal of Kim Dae-Jung, a former President, and our government's stance can be interpreted as constitutional.

F. Avoiding specifically and directly mentioning what the finally unified state will look like, the Leading Group of the Respondent insists on the scheme for unification by federation, which is the same as North Korea's proposal for unification, out of the unification plans, based on the South-North Confederation (one nation, two political entities, two regimes, two governments) as proposed by our government under the June 15th South-North Joint Declaration and the unification plan based on the loose form of federation as proposed by North Korea (one nation, one state, two regimes, two governments), and presents the following reasons therefor.

The Report on the Strategies for Seizing Power assumes that our government's unification plan is a plan based on a confederation of states and insists that "a confederation of states should not be a scheme for unification because a confederation of states is not necessary for the preparatory period for unification, the confederation of states itself is likely to be mistaken as a scheme for unification, and both the South and the North deny the identity of the other party as a state after the Inter-Korean Framework Agreement." "Progressive Democracy in the 21st Century," argues, "One of the unification methods that recognize regimes and systems of the other and ensures co-existence and co-prosperity is unification in the form of a federation," "A confederation of states starts with the basic promise that both the South and the North basically recognize the other party as an independent state, but as soon as both parties recognize each other as an independent state the necessity for unification disappears. In such a case, it is difficult to rebut the logical argument that, if both parties should exist as independent states, the establishment of a system for mutual cooperation and a collaboration will be sufficient, and it is unnecessary to establish a unified regime. Although such a logical argument seems to be a proposal to recognize actual identities as states at present and start from that point, a unified regime begins to have its identity as a unified regime upon transcending identities of both the South and the North as

states and attains identity as a state, and thus an entity prior to such moment cannot be treated as a unified regime. Accordingly, the confederation of states is the forerunner of a unified regime, and it is essentially identical with the current stage of reconciliation and cooperation between the South and the North. The first step to overcome the stage of inter-Korean cooperation in quality and to move forward toward a unified regime begins at the moment when both regimes in the South and the North start as one state, transcending their actual identities as states."

However, such arguments of the Leading Group of the Respondent are not convincing for the following reasons: although they criticize our government's unification plan, assuming that it is based on a confederation of states, our government's unification plan is that South Korea and North Korea recognize the other party merely as a real political entity, not as an independent state to form a confederation of the South and the North (that is why the term "a confederation of states" is not used) and then to establish a unified state. In other words, our government's unification plan does not aim to form a unified state on the premise of a confederation of states, in which South Korea and North Korea recognize the other party as a state, nor regards the confederation of the South and the North itself as unification. The criticism of our government's unification plan by the Leading Group of the Respondent, assuming that the plan is for unification through a confederation of states, is not correct, because it is based on an erroneous interpretation of our government's unification plan.

Moreover, Yemen accomplished unification by federation in the past, maintaining different regimes and systems, but it became a unified state with one regime and one system through a war that broke out shortly after unification. Since then, the world has not seen a single federal state with different regimes and systems. In the light of such historical experiences, the homogeneity of regimes and systems should be

recovered first before a unified state is established (no matter whether the unified state is a federation or a single state), if two or more states or political entities with different regimes and systems intend to form a unified state, without the collapse of any party or a war. Peaceful unification without a war is possible only through such a process, and thus our government intends to form a "confederation of the South and the North (one nation, two political entities, two regimes, two governments) as a preliminary stage for the formation of a unified state, in addition to the "stage of reconciliation and cooperation" so as to pursue a unified state, while recovering the homogeneity of the nation based on laws and institutions and form a unified state in a stable manner.

Meanwhile, because of the possibility of a war that might be triggered by unification in the form of a federation of different regimes and systems, the Leading Group of the Respondent seems to adopt unification in the loose form of a federation under which South Korea and North Korea can exercise power over major affairs in the form of one nation, one state, two regimes, and two governments. However, it is doubtful whether we can succeed in overcoming the contradictions that they regard as results of the division of the nation even through unification by federation at such a level. If they think we can succeed, we can possibly accomplish the goal at such a level just by guaranteeing a peace regime and promoting exchange between the South and the North through the execution of a peace agreement or only with a plan for unification based on a confederation of the South and the North, without necessarily insisting on unification by federation, and thus, there is no reason to adopt a unification plan that introduces unification by federation as a unification plan for overcoming the division of the nation.

After all, the reasons presented by the Leading Group of the Respondent as grounds for adopting the scheme for unification in a

so-called loose form of federation are not persuasive. As reviewed in the opinion of the Court, the reason why the Leading Group of the Respondent insists on the scheme for unification by federation of one nation, one state, two regimes, and two governments seems to be that it considers the scheme as a strategy for reforming the liberal democratic regime and pursuing the progressive democratic regime and the socialist regime (North Korean socialist regime), like North Korea.

G. The most controversial issue within the Democratic Labor Party in the process of platform amendment was the deletion of a socialistic element, the "succession to, and development of, socialistic ideals and principles," from its platform. The Leading Group of the Respondent that insisted on the introduction of progressive democracy had attempted to delete the term "socialism" simultaneously, along with the introduction of progressive democracy, even before the discussions on the platform amendment had begun. Comprehensively examining "The Nature of Korean Society and Revolutionary Strategies," presented by Kim ○-Min at the "Forum on the Nature of Korean Society and Revolutionary Strategies" held by the Democratic Labor Party's Strategy Committee for the Seizure of Power in October, 2007, and arguments presented in the "Recommendations on the Formation of the Committee for the Amendment of the Platform," and "Progressive Democracy in the 21st Century," published by the Democratic Labor Party, we can summarize that, "In our society at present, the contradictions that originate from subordinate, deformed, and premodern characteristics of the society, rather than from plundering by capitals itself, are more critical contradictions that must be solved immediately and urgently; solving such contradictions primarily should be the first task; it is premature to determine a post-capitalistic reform as a goal, because it is a burdensome task; if we insist on a socialistic reform, we will fail to induce people to actively participate in the reform, because of the defection of the middle class, and it will be impossible for us to overcome inferiority in fierce

struggles against privileged groups; and thus it is inappropriate to pronounce socialistic ideals and principles in the platform."

However, such arguments of the Leading Group of the Respondent are not persuasive. According to the "Report on the Strategies for Seizing Power," the platform should intensively specify the vision of the state and the vision of the society "immediately after seizing power," and "the platform implies the ideology and regime that the Democratic Labor Party pursues ultimately." Whether the platform should mention the ideology and regime that the party pursues ultimately may vary according to the party's position. "Succession to, and development of, socialistic ideals and principles" is a phrase that indicates the identity of the Democratic Labor Party that was launched with support from the Confederation of Trade Unions, etc., and the ideology and regime that the Democratic Labor Party pursues ultimately, and members of the Democratic Labor Party and the Respondent are those who became party members as they sympathized with such ideology and regime. Even the Autonomy Faction that insisted on the deletion of the expression "succession to, and development of, socialistic ideals and principles" has never abandoned socialism. Choi ○-Yeop, Park ○-Soon, Kim ○-Min, etc., asserted that they deleted the above-mentioned expression because of limitations under positive laws and as a people's political party's strategy for seizing power, but never abandoned socialism. Then, the Leading Group of the Respondent still pursues the "succession to, and development of, socialistic ideals and principles" as an ideology and regime, and therefore does not constitute an excessive goal nor is stating it in the platform premature.

Furthermore, an atmosphere in which not only progressive parties but also conservative parties develop and publicize policies friendly to ordinary citizens has widely spread in our society at present, and any political party that pursues socialistic ideals and principles is not subject to any sanction or disadvantage, unless it advocates or carries out a

violent revolution or proletarian dictatorship. Likewise, as our society takes an open attitude towards socialism, the Democratic Labor Party has gradually increased its strength to win the status of the third party with its seats in the National Assembly, despite clearly stating in its platform since its founding, the aim for "succession to, and development of, socialistic ideals and principles." According to the results of an opinion poll conducted by ○○ Research in June 2008 at the request of the Democratic Labor Party, the percentage of ordinary citizens and the disadvantaged class who had a positive view of the Democratic Labor Party was as overwhelmingly high as 67 percent, while the reasons why citizens' approval rating of the Democratic Labor Party dropped or remained stagnant were rigid struggles, pro-North Korean inclination, unrealistic policies, irresponsibility, and radical tendency (refer to the Report on the Strategies for Seizing Power). Meanwhile, the Respondent's use of the word 'progressive' in its platform makes it identifiable as a political party of progressive nature because ordinary people can hardly discern any difference between the word and the expression "succession to, and development of, socialistic ideals and principles." The Respondent identifies itself as a political party closer to socialism than the "Progressive Justice Party" formed by defectors from the Respondent, and ordinary people's perception of the Respondent and its members are not significantly different from such identity (refer to "20 Questions and 20 Answers about the Platform of the Unified Progressive Party"). Therefore, the argument of the Leading Group of the Respondent that clearly stating "succession to, and development of, socialistic ideals and principles" in its platform will cause the alienation of the middle class, and consequently it will fail to induce people to participate in the political party actively is not persuasive.

In the end, the fact that the Leading Group of the Respondent offered no rational reason for introducing progressive democracy beyond those reasons coinciding with North Korea's positions, and the fact that the Respondent deleted the expression "succession to, and development of,

socialistic ideals and principles" from its platform despite serious opposition from party members who supported the expression, can only lead to the conclusion that the Leading Group of the Respondent was blindly complying with North Korean instructions not to openly advocate the performance of a socialist revolution in pursuing a revolution in the South.

The following criticism by the progressive newspaper, *Left 21*, also support this decision: "The leadership of the Democratic Labor Party says that the socialistic platform is an obstacle to the great unification of progressive camps. However, the controversial issues even at the time of last split were the Autonomy Faction's hegemonism and attitude toward North Korea, not the socialistic platform. The socialistic platform is not on the agenda even in the current discussion on the great unification of progressive camps among the New Progressive Party, the Socialist Party, etc. It is nonsense that they blame the viewpoint of party members. The issue of the deletion of the socialistic platform was not raised by party members from the bottom but by the leadership of the Autonomy Faction from the top. It has been ten years since the Democratic Labor Party pronounced socialism in its platform. Some party members have been oppressed under the National Security Act, but the Democratic Labor Party itself has not been attacked as an organization collaborating with the enemy. Most of the members of the Democratic Labor Party, who have been oppressed under the National Security Act, were oppressed on the ground of a connection with North Korea. The clause concerning socialism was not a reason for the splitting of the Democratic Labor Party in 2008. North Korea was one of the real issues. It is true that a dispute arose when some leaders of the Autonomy Faction uncritically advocated North Korea's nuclear tests as North Korea's self-defense. The North Korean issue is one of the hottest issues among the great unification of progressive camps at present."

H. Charles De Montesquieu provided us with the insight that the Roman Empire fell because of prosperity, not because of internal division or confusion. A mechanism that used to work well may no longer operate when the size changes. When the defense mechanism works efficiently, challenges and conflicts can serve as sources of development and prosperity, but when challenges and conflicts exceed the critical point of the control system, the state may come to a brink and head for an eventual downfall.

Mencius said, "Detect the essence from glossy words." It warns of the ease with which we may fall victim to traps and nets hidden among the words and writings, arguments and ideologies. Understanding the Respondent's positions from reading the writings of the Respondent's leaders, without the ability to see through their and North Korea's various tactics, runs the risk of becoming trapped in their ruse. We should take care not to become Lenin's so-called "useful idiots," such as the misled mob in a square confounded by the mask from real appearances, opportunistic intellectuals and journalists, pseudo-progressives, and populist politicians. Protecting a person lacking the will for self-preservation is impossible. The same is true of a state.

Furthermore, ancient sages have taught us that "You should see the direction of an affair even from a small sprout, and the consequences even from its start." Therefore, in making judgment about our future and survival, we need insights free from prejudice and bias.

Democracy allows and guarantees free opinions and criticisms, as well as all ideas and cultures, and that is how it should operate. That is in fact the best advantage and value of democracy that our human race has developed. However, we must respond resolutely against acts that deny democracy itself and demolish its foundation. We cannot indefinitely allow acts that undermine the very existence of liberal democracy, the basis of "our and our children's safety, liberty, and happiness," in the

name of tolerance. A cuckoo secretly lays eggs in the nest of a crow, and the crow unknowingly broods the eggs with utmost care to allow them to hatch. However, the young cuckoos that hatch will shove all of the crow's eggs and younglings out of the nest and take possession of the nest. A crow that takes appropriate measures after finding the cuckoo's eggs in its nest can preserve its own species, while a crow that leaves the cuckoo's eggs in the nest will paradoxically lose all of its younglings.

The activities conducted by the Respondent, a political party dominated by the Leading Group of the Respondent, pursuing a progressive democratic regime and a socialist regime like North Korea, while denying and attempting to overthrow the liberal democratic regime of the Republic of Korea, constitute high treason that seeks to destroy the basis for our very existence and survival, and thus we must perforce make such an irreversible decision. That is because this case goes beyond simply a matter of right or wrong, or good or bad, and concerns the matter of existence and essence.

Chief Justice	Justice	Park Han-Chul	_____
	Justice	Lee Jung-Mi	_____
	Justice	Kim Yi-Su	_____
	Justice	Lee Jin-Sung	_____
	Justice	Kim Chang-Jong	_____
	Justice	Ahn Chang-Ho	_____
	Justice	Kang Il-Won	_____
	Justice	Seo Ki-Seog	_____
	Justice	Cho Yong-Ho	_____

Endnotes to the Whole Translation of Case No.
2013Hun-Da1 on the Dissolution of the Unified
Progressive Party

Inter-Korean Framework Agreement

Since 1980 when the cold war system began to be gradually dissolved, changes also began in the Democratic People's Republic of Korea (North Korea), and the Roh Tae-Woo Administration (1988-1993) in the Republic of Korea (South Korea) began to build diplomatic ties with communist states and initiated talks of high-ranking officials between the South and the North in 1990 as a result of the policy implemented by the Administration for "diplomacy toward north." In September 1991, South Korea and North Korea were admitted simultaneously to the United Nations as members, and consequently the Inter-Korean Framework Agreement was adopted in December of the same year. This Framework Agreement recognizes the regimes of South Korea and North Korea mutually and mainly provides mutual non-aggression, expansion of Inter-Korean exchanges and cooperation, etc.

Terroristic Attack at the Aung San Mausoleum in Myanmar

This is a bombing incident perpetrated by terrorists dispatched by the Reconnaissance Bureau of the Ministry of the People's Armed Forces (North Korea) at the Aung San Mausoleum in Rangoon (currently, Yangon), the capital of Burma (currently, Myanmar), on October 9, 1983. 17 ministers, officials, and the presidential entourage of the Republic of Korea, including Seo ○-Jun, Deputy Prime Minister, Lee ○-Seok, Minister of Foreign Affairs, and Kim ○-Hui, Minister of Commerce and Industry, were killed and other attendants were wounded.

Bombing of the Korean Air Flight

The bombing of the Korean Air flight occurred when the Korean Air flight No. 858 that departed from Baghdad in Iraq exploded mid-air over the Indian Ocean due to agents dispatched by the Democratic People's Republic of Korea (North Korea) in 1987. All 115 passengers and crew members were killed in this incident.

Torpedoed Sinking of Warship *Cheonan*

On March 26, 2010, the warship *Cheonan*, a patrol frigate of the Navy of the Republic of Korea, was sunk by a torpedo at the sea near Baikryeong Island. 40 soldiers of the Navy of the Republic of Korea were killed and 6 soldiers are missing in this incident. A joint investigation team organized with 24 persons from five countries, the Republic of Korea, Australia, the United States, Sweden, and the United Kingdom, announced on May 20, 2010 that the warship *Cheonan* was sunk by a torpedo shot by the Democratic People's Republic of Korea (North Korea). However, the Democratic People's Republic of Korea (North Korea) asserted that it was not involved in the incident, and the incident heightened tension between the South and the North.

Sea Battles of Yeonpyeong Island

The first Sea battle of Yeonpyeong Island was sparked by a preemptive strike by the North Korean Navy at the sea near Yeonpyeong island, not far from the Northern Limit Line, on June 15, 1999. The battle resulted in the sinking of one North Korean torpedo boat and severe damage to five North Korean boats, which fled to the North, while the Navy of the Republic of Korea suffered minor damage in five patrol boats. The second Sea battle of Yeonpyeong Island occurred at the sea near Yeonpyeong island, not far from the Northern Limit Line,

on June 29, 2002. Chamsuri 357, a patrol boat of the Navy of the Republic of Korea, was sunk while being towed after it was attacked by North Korean boats, and six crew members, including her captain, were killed and 19 crew members were wounded. North Korea also had casualties: 13 soldiers killed, and 25 soldiers wounded.

Bombardment of Yeonpyeong Island

Around 12:00 November 23, 2010, the Democratic People's Republic of Korea (North Korea) opened fire on Dae-yeonpyeong island in Yeonpyeong-myeon, Ongjin-gun, Incheon Metropolitan City, Republic of Korea. The Marine Corps of the Republic of Korea fired back after being shelled. Casualties were 2 marines killed, 16 marines wounded, 2 civilians killed, and 3 civilians killed; damage of property was the destruction of various facilities and houses.

Workers' Party of Korea

The sole political party of the Democratic People's Republic of Korea (North Korea). Although there exist the Social Democratic Party of Korea, the Chondoist Chongu Party, and other parties in North Korea, they are deemed merely ostensible opposition parties. Political power is actually concentrated on the Workers' Party of Korea according to Article 11 of the "Socialist Constitution," which provides, "The Democratic People's Republic of Korea shall conduct all activities under the leadership of the Workers' Party of Korea." Its theoretical groundwork is the *Juche* ideology and the Revolutionary Leadership Idea.

***Juche* Ideology**

The revolutionary ideology known to have been created by Kim

Il-Sung and intensified by Kim Jong-Il and the ideology that governs all aspects of North Korean society and the guiding ideology of the Workers' Party of Korea in North Korea. The Constitution of North Korea specifies it as the guideline for activities of the Democratic People's Republic of Korea (Article 3).

"*Juche*" is deemed to have been presented as the logic for justifying Kim Il-Sung's purging his rivals and establishing an one-man dictatorship regime in the mid-1950s, rather than as a kind of ideology or philosophy. The "*Juche*" born against such background was introduced to the "Socialist Constitution" adopted in December 1972 as the official ruling ideology. The *Juche* idea emphasizes that "people are masters of revolution and construction, and people have power to carry out revolution and construction," but it is deemed to function as a political tool and a ruling ideology, rather than a philosophical idea, because it in fact defines the relationship between the Suryeong (leader) and people as that of the master and subjects. North Korea deleted the word "communism" and adopted the "Songun (or Military-first) idea," which attaches importance to military forces and promotes intensifying military strength, along with the "*Juche* ideology," as core ideologies by an amendment of its constitution on April 9, 2009.

National Alliance

The National Alliance for Democracy and Unification of Korea (National Alliance, in short) is a political organization formed in the Republic of Korea in December 1991 and is considered a nationalist organization. It included 14 activists' associations, such as the National Labor Union Council, the National Federation of Farmers' Associations, and the National Students' Representative Council, 13 regional activists' associations, etc. as its members. It began to participate in campaigns for progressive parties in 2001, and particularly many members joined the Democratic Labor Party, as a consequence of the launch of the Korea

Alliance for Progressive Movement, the National Alliance was officially dissolved in February 2008.

Self-expulsion

The Unified Progressive Party was beset by suspicions of electoral fraud in its primary for nominating candidates for proportional representatives in the general election held on April 11, 2012 and suffered serious internal conflict over the settlement of the scandal. Led by the group that alleged the electoral fraud and did not accept the results of the election, the Unified Progressive Party held a general meeting of National Assembly members under the chairmanship of Kang ○-Gap, the party representative, on September 7, 2012 and resolved to expel 4 proportional representatives (Park ○-Seok, Seo ○-Ho, Jeong ○-Hu, and Kim ○-Nam). The expelled members had accused themselves before the Party Discipline Committee for expulsion in order to maintain their seats in the National Assembly, because they would lose their seats if they voluntarily left the party, and that is why the incident is called "self-expulsion."

Yeo ○-Hyeong

Yeo ○-Hyeong (1886 - 1947) was an independence movement activist and politician of the Republic of Korea. He formed the National Front for Democracy by combining leftists' associations in 1946 but opted out from the organization, opposing its extreme leaning to the left. Subsequently, he established the "Labor People's Party" and continued political activities as a party leader by combining moderate leftists, but was assassinated thereafter. He was posthumously awarded the Order Merit for National Foundation, the Presidential Medal in 2005, and then the Order of Merit for National Foundation, Republic of Korea Medal in 2008.

Park ○-Yeong

Park ○-Yeong (1900 - 1955) was an independence movement activist, revolutionist, and politician of the Democratic People's Republic of Korea. He took part in the foundation of the Korean Communist Party, formed the South Korean Workers' Party, and became Deputy Prime Minister and Foreign Minister of North Korea, concurrently holding his title as leader of the political party. When the Workers' Party of Korea was formed, he became vice chairman but was arrested and executed by Kim Il-Sung who purged the South Korean Workers' Party faction.

Kim Il-Sung

Kim Il-Sung (1912 – 1994) was an independence movement activist and a former leader of the Democratic People's Republic of Korea (North Korea). He held the posts of Prime Minister from 1948 to 1972 and President of the Democratic People's Republic of Korea from 1972 to 1994. After liberation from Japanese rule, he served as the representative of the Soviet Union in the Korean Communist Party and the North Korean Workers' Party and then became the Chairman of the Workers' Party of Korea after the merger of the South Korean Workers' Party and the North Korean Workers' Party. In 1950, he persuaded Stalin of the Soviet Union and started the Korean War with approval from Stalin, which resulted in the permanent division of Korea as it is now. He died in 1994 and was posthumously designated as the eternal President of the Democratic People's Republic of Korea by North Korea's constitution amended in 1998.

Korea Alliance for Progressive Movement

The Korea Alliance for Progressive Movement (abbreviated as KAPM) is a civil organization founded on September 16, 2007. It is a single

alliance of progressive movement camps, through which popular organizations from various classes and strata, such as workers, farmers, the poor, youths, and students, and progressive parties, were united. It was composed of 37 organizations, including popular organizations, such as the National Federation of Farmers' Associations, the National Alliance of the Poor, the Council of Youth Organizations of Korea, the Federation of Associations of University Students in Korea, and the Federation of 21st-Century University Students in Korea, and the Democratic Labor Party, as of the date of launch. It was committed to the abrogation of the FTA between the Republic of Korea and the United States, the abolition of the irregular worker system, the execution of a peace agreement, the withdrawal of U.S. armed forces in Korea, the abolition of the National Security Act, etc. and is considered as the NL faction, ideologically.

Wangjaesan

Kim ○-Yong and four other persons were prosecuted for the formation of an underground organization called "*Wangjaesan*," and espionage activities conducted according to instructions from North Korea. They were acquitted of the formation of an anti-government organization, some counts of espionage, and some counts of special infiltration and escape, but were convicted of the rest of the counts of espionage, special infiltration and escape, possession of materials with contents benefitting the enemy, and receipt of money and goods from the North, etc. The persons involved in the above-mentioned *Wangjaesan* case have not been found as members of the Democratic Labor Party or the Unified Progressive Party.

National Democratic Revolutionary Party (Democratic Revolutionary Party) Case

The National Democratic Revolutionary Party case is the case where

the Democratic Revolutionary Party was detected by the National Intelligence Service of the Republic of Korea in 1999 as an underground party within the Republic of Korea and its members, including Hah ○-Ok, Kim ○-Hwan, and Lee ○-Gi, were convicted of violations of the National Security Act. The National Democratic Revolutionary Party is known to have been founded in 1992, but its existence was disclosed for the first time when proofs demonstrating that Hah ○-ok had contacted with spies were found from a semi-submarine boat dispatched by the Democratic People's Republic of Korea but sunk at the sea near Yeosu in 1998.

Kim ○-Hwan

He was an activist in the Republic of Korea. He formed the Student Federation of National Salvation and diffused Kim Il-Sung's Juche idea to student activists in 1980s. He was famous as the author of the so-called "Iron Letters," which were documents for disseminating the *Juche* ideology. It is known that he illegally entered the Democratic People's Republic of Korea and met President Kim Il-Sung but converted later, confessing that he could see the reality of the Democratic People's Republic of Korea, played a leading role in the dissolution of the National Democratic Revolutionary Party, and currently works as an activist helping defectors from the Democratic People's Republic of Korea. He was summoned as a witness for this case (Case No. 2013Hun-Da1 on the dissolution of the Unified Progressive Party) and gave testimony.

Yeongnam Committee Case

The Yeongnam Committee is known as a regional organization of the National Democratic Revolutionary Party. In 1998, 15 activists in Busan and Ulsan were prosecuted for the formation of an anti-government organization under Article 3 of the National Security Act, and the district

court upheld the charge of an anti-government organization, but the appellate court held that it was only an organization collaborating with the enemy, not an anti-government organization, and the Supreme Court also affirmed only the charge of the formation of an organization collaborating with the enemy.

Anti-government Organization

"Anti-government organization" refers to an organization, a domestic or foreign association or group that uses fraudulently the title of the government or aims at a rebellion against the State and that is equipped with a command and leadership system (Article 2 (1) of the National Security Act).

Enemy-benefitting Organization

"Enemy-benefitting Organization" refers to an organization that aims to praise, incite, propagate, or sympathize with, activities of an anti-government organization, a member thereof, or a person who acts according to instructions from such organization or aims to propagate or instigate a rebellion against the State (Article 7 (1) and (3) of the National Security Act).

Kim Jong-Il

Kim Jong-Il (1942 – 2011), a son of Kim Il-Sung, succeeded his father as the supreme leader of North Korea. He took over supreme command over North Korean armed forces as Supreme Commander in April 1992, was designated as "Supreme Leader" after Kim Il-Sung died on July 8, 1994, and was inaugurated as General Secretary of the Worker's Party of Korea in October 1997. He became truly the most powerful man in September 1998 when he was designated again as

Chairman of the National Defense Commission, who was designated as the "supreme leader of the state, who would lead and command whole political, military, and economic forces of the state." He had South-North summits with President Kim Dae-Jung in 2000 and with Roh Moo-Hyun in 2007, respectively. He died of a heart attack on December 17, 2011.

***Songun* Politics**

Songun politics or *Songun* idea is a way of ruling by giving priority to military forces. It is based on the systematic arrangement of the existing idea of attaching importance to military forces and began to be used in 1998. This indicates a leadership style intended to carry out socialistic tasks centered on military forces and is reflected in all areas in North Korean society, not only in politics and the economy but also in education, culture, arts, and so on. North Korea's constitution specifies the *Songun* idea as a guiding idea of the Democratic People's Republic of Korea, along with the *Juche* ideology.

Solidarity for Practice of the June 15th South-North Joint Declaration

An organization formed in 2000 with an aim to conduct activities for the unification of Korea, and the Supreme Court held that the solidarity was an illegal organization collaborating with the enemy in the light of its acts of praising and inciting for an anti-government organization (North Korea) (Supreme Court Case No. 2010 Do1189, Jul. 23, 2010). This judgment was accompanied by the dissenting opinion of four Justices (Park Si-Hwan, Kim Ji-Hyeong, Lee Hong-Hun, Jeon Su-An) who denied the nature of the solidarity as an organization collaborating with the enemy.

Kim Jong-Un

Kim Jong-Un (Jan. 8, 1984 ~), a son of Kim Jong-Il, has become powerful gradually and well-known since the late 2000s when Kim Jong-Il designated him as his successor and became the de facto supreme leader of the Democratic People's Republic of Korea by hereditary succession for three generations after Kim Jong-Il died in 2011. He holds the positions of the First Chairman of the National Defense Commission of the Democratic People's Republic of Korea and the Supreme Commander of the Korean People's Army.

Yun Bong-Gil

Yun Bong-Gil (Jun. 21, 1908 ~ Dec. 19, 1932) was an independent movement activist of Korea. He threw bombs at a Japanese army, at an event held in Shanghai to celebrate the birthday of the Japanese emperor on April 29, 1932 and was arrested and executed by the Japanese martial court.

Ahn Jung-Geun

Ahn Jung-Geun (Sep. 2, 1879 ~ Mar. 26, 1910) was the commander of a militia of the Empire of Korea. He assassinated Ito Hirobumi, the first Governor-General of Korea, on October 26, 1909 in Harbin, Manchuria and was executed on a murder charge on March 26, 1910.

Setting Election

It means that some people manipulate or arrange the Settings that affect an election, for example, the method of selecting candidates, the method of calculating votes, and the voting method, prior to the election to make them more advantageous to certain candidates.

Autonomy and Solidarity for Social Democracy

A faction within the Democratic Labor Party, which rejected state socialism and supported social democracy. This group was in confrontation with the leading group of the Respondent because of the leading group's pro-North Korean inclination, and the majority of members of the "Autonomy and Solidarity" defected from the Democratic Labor Party at the time of the first splitting of the Democratic Labor Party in 2008, which was triggered by the *Ilsimhoe* incident.

SOFA (Status Of Forces Agreement)

This is also called the "Agreement on the Status of United States Armed Forces in the Republic of Korea." The official title is the "Agreement under Article IV of the Mutual Defense Treaty between the Republic of Korea and the United States of America, regarding Facilities and Areas and the Status of United States Armed Forces in the Republic of Korea."

Theory of *Juche* Social Reform

The theory of *Juche* social reform is the Jusa group's theory of social reform movements in Korea, and specific details of the theory are similar to contents of the book titled "Theory of Juche Social Reform Movements in Korea." The "Theory of Juche Social Reform Movements in Korea" is a theoretical book regarding a revolution in the South composed of six chapters: The guiding ideology of reform movements in Korea; the nature of Korean society; theories, strategies, and tactics of reform movements; awakening social consciousness and organization of people, etc. This book describes Kim Jong-Il's "Theory on the National Liberation Democracy Revolution" in detail. The "Theory on the

National Liberation Democracy Revolution" is based on the lecture that Kim Jong-Il gave to key officials in charge of affairs of the South on May 24, 1991. The department in charge of South Korean affairs in North Korea made the so-called May 24th Document by summarizing the lecture, in 1992, and it is said that the details thereof became known to South Korea through oral statements of North Korea's spies in the South, North Korea's broadcasting system in Pyeongyang, and the broadcasting system dedicated to propagation toward the South, "Voice of National Salvation." This book was posted in the "National Salvation Front," the website of the "Korean Nation's Democratic Front (the title was changed to "Anti-Imperialism National Democratic Front" on March 23, 2005) operated by North Korea, in October 2003.

June 15th Joint Declaration

A joint declaration announced by Kim Dae-Jung, President of the Republic of Korea, and Kim Jong-Il, Chairman of the National Defense Commission of the Democratic People's Republic of Korea, at the Summit in Pyeongyang on June 15, 2000. In this declaration, it was agreed that the question of reunification of the South and the North should be resolved independently and through the joint efforts of the Korean people and that there was a common element in the South's proposal for a confederation and the North's proposal for a loose form of federation in regard to unification.

October 4th Declaration

A declaration agreed by and between Roh Moo-Hyun, the 16th President of the Republic of Korea, and Kim Jong-Il, Chairman of the National Defense Commission of the Democratic People's Republic of Korea, at the South-North summit in 2007. It is also called the October 4th South-North Summit Declaration or the South-North Summit Declaration of 2007 and the October 4th Declaration in short. This

declaration reconfirms the spirit of the June 15th Joint Declaration and contains an agreement on close cooperation for easing military hostile relations, efforts for the establishment of permanent peace, and other issues related to economic cooperation.

Loose Form of Federation

On the basis of the "June 15th South-North Joint Declaration" adopted at the inter-Korean summit in 2000, North Korea proposed the formula for a "loose form of federation." This is based on the principle of "one nation, one state, two regimes, two governments," under which the governments in the South and in the North keep their current functions and powers over politics, military affairs, and diplomacy as they are respectively but a national unification organization is to be established above the governments so as to adjust inter-Korean relations uniformly. This is partially similar to the "confederation of the South and the North," which we proposed as an interim stage of the "plan for reunification of the national community" in that more powers are to be given to regional governments, but differs from the "confederation of the South and the North," which is based on the assumption that the stage of two states is a transitional period, but North Korea's formula proposes one state and therefore it differs from the "plan for reunification of the national community," requiring a stage of reconciliation and cooperation for a long period, while North Korea's formula suggests the "removal of all political and physical barriers."

Farmers' War of 1894

It is also called the Donghak Peasant Revolution or the Donghak Peasant Movement. This is an armed uprising of leaders and followers of the Donghak religion and peasants in 1894, which ended in failure because of the intervention of China and Japan. It is recognized as a reformative movement opposing the feudal ruling regime and a

movement against foreign powers in an attempt to overcome the Japanese invasion.

March 1st Movement

It is recognized as an anti-Japanese movement that occurred on March 1, 1919 for independence and as the largest national movement that took place during the period of Japanese occupation. The preamble of the current Constitution of the Republic of Korea declares that we, the people of Korea, "uphold the cause of the Provisional Republic of Korea Government born of the March First Independence Movement of 1919."

April 3rd People's Uprising

It is also known as the April 3rd Incident in Jeju. The April 3rd Incident in Jeju refers to disturbances that began on March 1, 1947 and occurred on April 3, 1948, armed conflicts that took place on Jeju island until September 21, 1954, and victimization of residents in the course of suppressing the conflicts. The "Special Act on Discovering the Truth on the Jeju 4-3 Incident and the Restoration of Honor of Victims" was enacted in 2000 so as to seek the truth and restore the honor of the victims.

April 19th Revolution

An anti-corruption, anti-government uprising led by students who claimed the nullity of the fraudulent election and demanded re-election before and after the presidential election held on March 15, 1960, and the preamble of the current Constitution of the Republic of Korea declares that we, the people of Korea, "uphold the democratic ideals of the April Nineteenth Uprising of 1960 against injustice."

Busan-Masan Uprising

A democratization movement that arose in Busan and Masan in protest against President Park Chung-Hee's Yushin system in the middle of October, 1979.

May 18th People's Uprising

It is also known as the May 18th Democratization Movement. This is a democratization movement that citizens in Jeollanam-do and Gwangju staged from May 18 to 27, 1980, protesting against military dictatorship and rule and demanding the lift of martial law, the release of democratic political leaders, etc. The "Act on Compensation, etc. to Persons Associated with the May 18 Democratization Movement" was enacted in 1990 so as to restore the honor of the persons who died in connection with the May 18th Democratization Movement, their bereaved families, etc. and compensation therefor.

June Uprising for Democratization

This is also called the June 10th Uprising or the Democratization Movement of 1987. This democratization movement arose throughout the country in June 1987 to demand the direct presidential election system, and succeeded in inducing the government's June 29th Declaration in which the government accepted the demand for a constitutional amendment for the direct presidential election system. The Constitution of the Republic of Korea, currently in force, is the Constitution amended as a result of the movement.

Great Labor Struggles in July, August, and September

These struggles were nationwide strikes that continued from July to

September, 1987 after the June Uprising for Democratization to demand the construction of democratic trade unions, increased wages, and improved working conditions, etc.

Federal System of the South and the North

A reunification plan proposed by Kim Il-Sung in 1960. According to this plan, political systems of the South and the North will remain as they are, and the two governments will continue conducting activities independently, while the Supreme National Committee will be formed with representatives from the two governments to accomplish national unity after adjusting problems in politics, the economy, and culture.

Plan for Unification of the Federal Republic of Korea

A unification plan proposed by North Korea in the 1980s, according to which two regional autonomous governments will be established in the South and the North respectively and the "Supreme National Federal Assembly" will be formed above the governments as the unified federal government, under the assumption of a perfectly unified state, not an interim federal system.

Key Resolve Exercise

A joint military exercise conducted annually by the Combined Forces Command of the Republic of Korea and the United States so as to practice skills to promptly accommodate and deploy U.S. reinforcements from any area outside of the Korean Peninsula in an emergency.

Armistice Agreement

An agreement signed by the commander-in-chief of the United Nations Command, the commander-in-chief of the North Korean Army and the commander of the Chinese People's Volunteers on July 27, 1953, which remains effective until today.

Mad Cow Incident

A mass candle light vigil that began in May 2008 and continued on a large scale for a long period. The mass vigil began with a peaceful candle light vigil of citizens who opposed the importation of beef from the United States but was escalated to extensive rallies against the government's policies and the resignation of the administration, and incurred controversies over violent rallies and excessive suppression by the police. In June 2008, President Lee Myung-Bak apologized for the incident and announced a statement to commit himself to take every measure to improve food safety to the level of advanced countries.

Incheon Landing Operation

The military operation through which the United Nations forces reversed the situation of the Korean War by landing in Incheon under the command of MacArthur in September 15, 1950 disrupting the supply line and the rear of North Korean forces.

March of Ordeal

A slogan that North Korea promoted to overcome extreme economic hardships caused by international isolation, natural disasters, etc., in the mid- and late 1990s.

DJ

The initials of Kim Dae-Jung, politician who served as the 15th President of the Republic of Korea.

Supreme Court's Judgment on the Rebellion-Related Case (Supreme Court Case No. 2014 Do 10978, Jan. 22, 2015)

Subsequent to the Constitutional Court's decision to dissolve the political party, the Supreme Court rendered a decision to dismiss the appeal of defendants, including Lee ○-Gi, a National Assembly member from the Respondent, and Kim ○-Yeol, chairman of a regional committee of the Respondent. Accordingly, the conviction of Lee ○-Gi and Kim ○-Yeol for instigation of insurrection was finally affirmed, while the acquittal of the other five defendants of conspiracy of insurrection was finally affirmed. The decision was accompanied by the dissenting opinion of three Justices on the conviction of the instigation of insurrection and the dissenting opinion of four Justices on the acquittal of conspiracy of insurrection.

1211 Hill

A hill situated in the North Korean side of the Demilitarized Zone and occupied by North Korea after fierce battles between the South and the North during the Korean War. The name is used to mean a strategic goal that North Korea seeks to accomplish.

Dangun

The first king of Gojoseon (Ancient Joseon), who is known as the progenitor of the Korean people of the Republic of Korea.

Humanitarian Ideal (Hong-ik-in-gan)

This term means that we should endeavor good for all of mankind, and originates from the birth myth of Gojoseon, and is considered as a term embodying an anthropocentric philosophical idea and a world view of harmony and peace.

Provisional Republic of Korea Government

The provisional government established in Shanghai, China, in order to protest systematically against Japanese rule after the March 1st Movement in 1919.

Democratization Movement of 1987

Same as reviewed above in connection with the June Uprising.

Two-Vote System (Under the Act on the Election of Public Officials)

The Act on the Election of Public Officials as amended by Act No. 6663 on March 7, 2002 introduced the two-vote system under which each voter has one vote for a candidate running for a constituency and another vote for a nationwide political party (successful candidates are determined according to the order of priority in each political party's list of candidates).

People's Solidarity

An organization established jointly by 39 organizations from all parts of the country, including the Confederation of Trade Unions, the Democratic Labor Party, and the National Federation of Farmers' Associations, and officially titled "National People's Solidarity for

Fighting for National Autonomy, Democracy, and People's Right of Livelihood."

Debates on Social Formation In the 1980s

Ideological debates among activist camps as discussed in regard to the stream of reformative movements in Korean society in paragraph 4. (a) of this decision.

Solidarity of Opposition Parties

Attempts to promote political alliance, such as attempts to nominate single candidates of opposition parties in elections of public officials for joint response against the majority ruling party and the transfer of political power which occurred from 2008 onward.

July 4th South-North Joint Statement

The South-North joint statement announced in 1972 on an agreement for the principles of unification, including autonomous unification and peaceful unification, the relaxation of tension between the South and the North, and inter-Korean exchange.

Syngman Lee

An independence movement activist and the first President of the Republic of Korea. He stepped down from presidency, taking responsibility for the electoral fraud in 1960.

Yu ○-Oh

A jurist who participated in the establishment of the Constitution of

the Republic of Korea. He served as the first Minister of Government Legislation and party leader of the New Democratic Party.

Confederation

The basis of the unification plan proposed by the government of the Republic of Korea, under which South Korea and North Korea will form a confederation after undergoing the stage of restoration of trust, reconciliation, and cooperation between the South and the North and advance to a unified state ultimately.

Cho ○-Ang

An independence movement activist and politician. He participated in the establishment of the Provisional Constitution, the Founding Platform of the Provisional Republic of Korea Government, and was elected as a National Assembly member in the second election of National Assembly members after independence from Japanese rule, but was kidnapped to the North during the Korean War.

Korean Peninsula Trust-Building Process

The Park Geun-Hye Administration's unification policy that aims for the "development of inter-Korean relations," establishment of peace on the Korean Peninsula, and "establishment of a basis for unification."

Case of the Progressive Party of Jo ○-Am

Jo ○-Am was an independence movement activist during the period of Japanese occupation and participated in the establishment of the Constitution of the Republic of Korea. He served as Deputy Speaker of the second National Assembly and lost in the second (1952) and third

(1956) presidential elections. He formed the Progressive Party and engaged in activities of the political party in 1956 but was prosecuted for espionage in 1958 and was sentenced to the death penalty and executed by hanging in 1959. The registration of the Progressive Party formed by Jo ○-Am was revoked by the Office of Public Information in 1958 by reason that its platform corresponded to that of the Workers' Party of Korea. The Constitution in force at that time had no provisions concerning the dissolution of a political party (provisions concerning privileges of political parties). In 2011, the Supreme Court acquitted Jo ○-Am of espionage and held that the formation of the Progressive Party did not contravene the democratic basic order and economic order of the Republic of Korea.

National Security Service's Intervention in a Presidential Election

A case where officials of the National Intelligence Service was suspected of participation in political activities or intervention in a presidential election by posting comments on websites according to instructions of the National Intelligence Service, prior to the presidential election in 2012. Trials on the Director of the National Intelligence Service at that time and others are still pending as of 2015.

Espionage Case of a Public Official of the Seoul Metropolitan Government

A case where the fabrication of proofs is suspected because the Chinese Embassy replied that some documents presented by the prosecution as evidence, such as records of departure and entry at the border, were forged, while a trial on a public official of the Seoul Metropolitan Government, who defected from North Korea, for violation of the "North Korean Refugees Protection and Settlement Support Act" and espionage was pending.

Economic Democratization

Article 119 (2) of the Constitution of the Republic of Korea provides that the State may regulate and coordinate economic affairs in order to maintain the balanced growth and stability of the national economy, to ensure proper distribution of income, to prevent the domination of the market and the abuse of economic power and to democratize the economy through harmony among the economic entities. The discussions on "economic democratization" with regard to the State's intervention to relieve the unequal distribution of wealth and welfare policies are ongoing, and candidates from the ruling party and opposition parties for the presidential election in 2012 included the "economic democratization" policy in their public pledges.