

HEADQUARTERS UNITED STATES ARMY
MILITARY GOVERNMENT IN KOREA
DEPARTMENT OF JUSTICE

Inter-Office Memorandum

SUBJECT Prosecutions of Communists in Cheju Do

MEMO NO	Date	From	To	
1	22 Jan 48	Adviser to the Department of Justice	OSI OCA MG	<p>1. The previous file in this matter was sent to OCA by this office on 10 November, 1947, to be given to OSI, which office was sending Lt. Col. Nelson to Cheju Do for a routine inspection. Lt. Col. Nelson said he would check this matter but is report of an investigation we have not seen the OSI report. Attached by a Korean prosecutor of one phase of the matter.</p> <p>2. The previous file began with a memo dated 15 October, 1947, giving OCA and DIG the details of a dispute pending between the CCAO and the Korean Court in Cheju Do. The background of the dispute was the right-left controversy. The CCAO was backing the former Provincial Governor, Pak Kyung Jun, believed by the CCAO to be a middle-of-the-road man, but believed by the present Provincial Governor and the police and court officials to be an actual member of the Communist Party.</p> <p>3. In July, 1947, ex-governor Pak and his crowd prepared a petition addressed to the US-USSR Joint Commission and requested permission of the police to circulate it among members of Democratic National Front parties, which permission was granted. Then Pak and his crowd so framed the papers as to make it appear that police approved the petition, which was Communist Party line stuff advocating a Peoples' Republic and a Peoples' Committee.</p> <p>4. This the police and court officials considered violation of Art. 105-2 of the Criminal Code, which reads as follows: "One who spreads a false statement aimed at disturbing the people's minds shall be punished with not more than 5 years of penal servitude or confinement, or a fine not more than 5000 yen."</p> <p>5. The CCAO felt that Pak and his crowd were being persecuted for their political beliefs and peremptorily ordered the charges dropped. The Koreans obeyed the order, although an indictment had been made.</p> <p>6. The CCAO informed us of the dispute and that the prosecutor was not following his advice, so before he issued his order. However, the file did not indicate that command desired to give any directions in the situation, so we merely sent the file forward for investigation by OSI.</p>

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7. There were other elements of friction between the Koreans and Americans on Cheju Do, so we requested the Chief Prosecutor of the Supreme Court to send Lee Ho, a prosecutor of the Seoul Court of Review, who speaks English and who was a member of the five man team which visited the States to study American judicial and legislative systems, to try to get mmm at the bottom of the difficulty and, if possible, work out better rapport between the Americans and Koreans. His report is attached hereto.

8. This case involves two points: (a) Was it proper for the CCAO to give such conclusive backing to the communists? and (b) Was it proper for the CCAO to give a peremptory order to the court in a pending case, without obtaining specific authority from the Military Governor.

9. As to the first point, we are, of course, on shaky ground before the bar of world public opinion in enforcing Art. 105-2 of the Criminal Code. But it has not been repealed and it has very likely been found useful by the Korean police in putting away people we have wanted put away. Although the incident here presented may seem trivial, in view of the great power the police have and the fear the people have of them, the methods used by Pak and his crowd undoubtedly intimidated many persons into signing the petition by leading them to believe that the police were behind it. So it is quite probable that Pak and his crowd were guilty of violation of Art. 105-2.

10. As to the second point, it is felt by this office that the CCAO should not have intervened in the manner used by him. Such intervention should be done only in a formal manner by the Deputy Military Governor through Korean channels. Of course, the CCAO, as representative of the Military Governor, should have authority to act for the Military Governor, but this authority should be exercised only in an extreme emergency where there is not sufficient time to securing action by the Military Governor.

11. It is felt that, in view of the high political importance of the case and the absence of any extreme emergency, the decision should have been made at top level.

12. Perhaps the Special Investigator, however, dug up other facts not known to us, so this report is sent through OSI for comment, and to attach the original file, if deemed appropriate.

Date ON OKW

JOHN W. CONNELLY, JR.,
Major JAGD
Adviser.

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