

Historical Significances of Opening Decision for Retrial by Jeju District Court of Jeju April 3rd Events' Survivors under Illegal Martial Law Court(1948-1949)¹

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Abstract

In January 2019, the Jeju District Court handed down a ruling to reject the indictment from all 18 survivors who were sentenced to prison terms in 1948 and 1949 at military court meetings in Jeju. For the past 71 years, Jeju Islanders have campaigned for transitional justice in that time to find the truth about the Jeju massacres(1947-1954). The most important and urgent task in solving the Jeju massacres issue is to set the right for truth and transitional justice before seeking reconciliation and co-prosperity each other. The ruling, which was made by the Jeju District Court in fact not guilty of surviving inmates of the military court in 1948 and 1949, carries the historical significance of returning to the pivot to human rights.

Key words :

military court in 1948 and 1949 in Jeju, human rights, Jeju massacres(1947-1954), Jeju District Court, dismissal of an indictment

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Introduction

During the seven years and seven months of the Jeju massacre, March 1, 1947 to September 24, 1954, the U.S. Army Military Government in Korea and the government's of Republic of Korea of military and police committed too many illegal and illegal acts in the name of maintaining national security and order. The U.S. military government in South Korea and the South Korean government's military and police branded Jeju residents as communists, illegally arrested, tortured, imprisoned, forcibly went to prison and then tried to bring them to justice. But no one could protest, raise, or appeal against it, and suffered in the name of the law.

Thirty years after the Bukcho-ri massacre, a novel accusing this tragedy was published in Seoul.² It was only 50 years after the Cheju massacres that the U.S. military government in Korea was first mentioned as a legal responsibility to be involved in the massacres.³

Since 2000, the Korean government has conducted an official survey of the Cheju massacres for three years. The investigative report on the 2003 Cheju massacres was adopted in the primal committee, and the incumbent president apologized to the bereaved families for the nation's wrongdoings for the first time in 57 years since the incident occurred.

Since the 2000s, Korean, U.S. and Japanese scholars, for example Eric Yamamoto, Kunihiko Yoshida, Chang Hoon Ko, Sang-Soo, Hur, Tae-Ung Baik and Hunjoon Kim et. al. have actively discussed the responsibilities of the U.S. for the Cheju massacres during the era of peace during the U.S. military regime in South Korea.⁴

But it did not hold them legally responsible. But in 1948 and 1949, the survivors, who were imprisoned and sentenced by military courts, requested a retrial. Since then, finally started advocating the rights of victims in earnest.

Military court rulings in 1948 and 1949, in Jeju are illegal and invalid

On January 17, 2019, Jeju District Court approved

2) Hyun Ki-Young 1978 Aunt Suni(Sun-I Samch'on), ChangjakgwaBipyung.

3) Bruce Cumings 1988 The Question of American Responsibility for suppression of the Cheju Uprising. Paper presented at the 50th Anniversary Lecture of the April 3, 1948 Cheju-do Events, Tokyo, March 14, 1988.

4) Chang Hoon Ko. et al 2016 Jeju April 3rd Grand Tragedy during 'peacetime' Korea : The Asia Pacific Context C&P.

the decision for Retrial case made by the Court's 2nd Criminal Department(Judge Jegal Chang, Judge, Cheong Seung-jin, Judge Seo Yeong-woo) on the April 3rd Events survivors of former prisoner. The court said, "The illegal detention and abuse of petitioners constitutes a violation of the provisions concerning the human rights abuses of authority by the special officer of the Constitutional Court and the old Criminal Procedure Act (1948). On April 19, 2017, the so-called "Survivor" of so-called prisoners and the Jeju Islanders' Alliance for April 3rd Events filed a petition with the Jeju District Court to reconsider the Military court's decision, 1948-1949.

Eighteen ex-convicts on Jeju Island, who were sentenced to prison in December 1948 and July 1949, are suspected of violating the so-called civil war crimes in Jeju Island, face up to one year in prison, 20 years in prison and the maximum sentence.

On September 3, 2018, Jeju District Court approved the reopening decision for Retrial case made by the Court's 2nd Criminal Department. It was the first retrial since the massacres of civilians who stained Jeju Island with blood and brought a grand tragedy.

At that time, they were notified of their crimes and sentences only after they were transferred to a mainland prison without mercy, and were sentenced to prison, life imprisonment and imprisonment through a military trial. The number of those listed on the prisoner list amounts to 2530 people.

Three days after the decision, the Jeju District Public Prosecutors' Office said, "We have decided not to appeal to the court immediately, respecting the court's decision to reopen the retrial case on Jeju April 3rd Events. The Jeju Prosecutors' Office was able to appeal the court's decision immediately within three days, but gave it up. As a result, the court could hold a criminal trial at Jeju District Court, which will determine whether the punishment that was committed against them was innocent.

The Jeju District Court's ruling in 2019 is a landmark human rights ruling in South Korea.

The historical significance of the retrial decision are that it is the first decision by the judiciary that recognizes the injustice of the inmates in Jeju April 3rd Events' Ex-Prisoners. In January 2000, the Special Act on the Truths and Restoration of Honor of Jeju April 3rd Events was enacted and enforced

on Jeju Island. The Committee for the Truth and Restoration of Honor of Jeju April 3rd Events(Prime Minister, Chairman of the Committee) adopted and published the "Investigation Report of Jeju April 3rd Incidents" after three years of investigation. The report had to limit the specific and detailed legal, criminal, international, and international human rights legal judgment and interpretation of the perpetrators' criminal investigations. Thus, numerous offenses, such as political genocide, forced taking of innocent people, illegal detention, torture, kidnapping, sexual assault, and the neglect of the dead bodies were not subject to judicial judgment, interpretation and enforcement of significant human rights violations. The Jeju District Court's decision to start a retrial of the Jeju District Court was the first legal decision in human rights history of South Korea to solve the hottest issues, defects and flaws of the human rights law applied to the Investigation Report of Jeju April 3rd Events.

Second, the decision to open a retrial case has completely rejected claims of the group against the special law on Jeju April 3rd Events, which has been tried since 2000, and has completely restored the anti-investigative report on Jeju Island. Because the essence of the April 3 uprising was to boycott the Gwandeokjeong massacre in March 1st, 1947, U.S Army Force's oppression after the civil and government co-strike, March 1947, and against the U.S. military-controlled tyranny and division of the Korean peninsular, divide one Korean government. However, the U.S. military initially viewed it as a "civil situation," "a mere disturbance" which was then suppressed through police reinforcements and the movement of U.S. troops, airplanes and U. S Navy destroyer, and repeated anti-human killings through the Korean military and police. The present court judged that the words of the anti-communist groups, which have repeatedly denied, distorted disparaged and exaggerate, were wrong and that the victims' claims were justified.

Third, as the decision of the retrial confirmed the illegality of the military court in 1948-1949, the revision of the Special Act on Jeju April 3rd Events was very encouraging. Therefore, not only the victims families association but also related groups urged the revision of the April 3rd Events Act. Especially among lawmakers in South Korea, the decision was taken as a surprise and shocking one. This is because I note that this decision will serve as a major leverage for

the revision of the Jeju April 3rd Events' Act in the future.

Fourth, the initial decision to reopen the trial after paying attention to its illegality, violence and crimes against humanity was made, not to mention the high sense of human rights and persistent restoration of honor among the surviving inmates who were illegally detained at the time. The claimant, Mrs. Im was born in 1921, who 97 years old woman and still pointed out that the trial was unfair when she took away all her youth and life.

Fifth, after the Jeju Massacres in 1947-1954, a number of lawyers identified the truth and reviewed it after "discovery and disclosure of the prisoners list," but the decision was made when the committee rejected the decision. It was possible because there were legal judgments that could not be made by a jurist, a lawyer or a prosecutor, and an essential understanding and insight into the illegality of a military court. The truth regime of seeking truth and justice in the Jeju massacres paid attention to the importance of transitional justice and human rights during the cold war period at that time. In a word, it is a return of pivot to human rights.

To sum up, the Jeju District Court's decision to launch a retrial of the court's execution of military trials could be the biggest historical significance of the April 3rd Events settlement process. This is because all other military court hangers who have not filed a review will have the same opportunity to make legal judgments. Furthermore, a series of acts carried out by the military and police during the martial law period could serve as an occasion to judge them as illegal acts.

Several trials were held at Jeju District Court during the Jeju Massacres(1947-1954). The trial held under the U.S. military regime was held in the name of the law, but by the standards of the U.S. Constitution and international law, it was very inappropriate and perfunctory. U.S. Soldiers who were not lawyers were judges, prosecutors, and sometimes attorneys. So, the U.S. military government hired Korean lawyers during the Japanese imperial era. These former pro-Japanese lawyers were the ones who led the crackdown on patriots who campaigned for independence in the past.

First, since the general strike in March 1947, the U.S. Army Military Government in Korea(USAMGIK) has repeatedly tried on Jeju people for rioting and illegal rallies. At first, the U.S. Forces in Korea(USFIK)

took charge of the trial and later replaced it with a Korean. For the next 13 months, the U.S. military police of USAMGIK forced the police to investigate about 2,500 people. At that time, 245 people were sentenced to a fine on April 17, 1947, a trial by the end of December, and sentenced to prison terms.

Second, the U.S. military tried on trial in the U.S. military government after the popular uprising on April 3, 1948, calling for opposition to the South Korean single elections.

Third, South Korea's Rhee Syng-man government issued martial law on November 17, 1948 in Jeju without the martial law. Based on this, the martial forces held a military trial, or a military law conference. The trial took place over two periods.

1) High-ranking military tribunal for Jeju Island, established under the Special Order No 29, dated on December 1st Dangi(Korean Chronicle of Dangun Foundation) 4281 (1948) and the Same Amendment No. 39 of December 25, Dangi 4281

2) High-ranking military tribunal for Jeju Island, Army Headquarters 2nd Infantry Regiment established under the Special Order No. 71 of June 1, Dangi 4282(1949)

The names of law applied to Jeju people at that time were "execution of civil war" and "infringement of the National Defense Security Law."

On September 19, 1999, National Assembly Woman, Choo Mi-ae of the New Politics Alliance for Democracy (NPAD) announced the first investigation into "the Dangi 4281 (the court of military court) Prisoner List" in the National Archives of Republic of Korea. The list included the names of the inmates, their age, occupation, origin, defense and judgment, date of the sentence, sentence, and prison.

From now on, a thorough and detailed interpretation and judgment on such trials will be needed for further truth and transitional justice.

The U.S. military government in South Korea illegally arrested, forcibly investigated, tortured, and arbitrarily ruled and detained innocent Jeju Islanders without a trial-like formal trial, without complying with the existence of the military law and the human rights charter. The South Korean government repeated all these illegal acts of the U.S. military government in South Korea without exception, denying and violating both the Constitution and the criminal code order. Therefore, all rulings handed down to Jeju residents in military courts in 1948 and 1949 are illegal and invalid.

on behalf of the conclusion: To establish authentic transitional justice

In January 17, 2019, the Jeju District Court handed down a ruling to reject the indictment from all 18 survivors who were sentenced to prison terms in 1948 and 1949 at military courts in Jeju. The Jeju District Court's ruling in 2019 is a landmark human rights ruling in South Korea. For the past 71 years, Jeju Islanders have campaigned for transitional justice in that time to find the truth about the Cheju massacres(1947-1954). The most important and urgent task in solving the Jeju massacres issue is to set the right for truth and transitional justice before seeking reconciliation and co-prosperity each other. The ruling, which was made by the Jeju District Court in fact not guilty of surviving inmates of the military court in 1948 and 1949, carries the historical significance of returning to the pivot of human rights.

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