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EDITORIAL

Unconstitutional

Judiciary opposes ‘special insurrection tribunal,’ citing judicial independence

The ruling Democratic Party of Korea is pushing ahead with its efforts to enact a “special insurrection law” that would set up a special tribunal for the crime.

Jeon Hyun-heui, chair of the party’s committee for responses to three special counsel investigations, said Sunday that she would expedite the process of legislating the establishment of the exceptional court for insurrection.

Special counsels are currently investigating insurrection charges related to former President Yoon Suk Yeol’s Dec. 3 martial law decree, allegations against former first lady Kim Keon Hee, and Yoon’s alleged undue influence on investigations into a marine’s accidental death.

Kim Byung-kee, floor leader of the party, said Tuesday that special tribunal for insurrection was needed. The party is rumored to be planning to introduce the bill to the Assembly’s Judiciary Committee on Thursday.

Under the “special law for follow-up measures to the Dec. 3 emergency martial law and the protection of related informers,” alias the special insurrection law, which was proposed in July, special tribunal for insurrection will be established in the Seoul Central District Court and the Seoul High Court which will take charge of first and second trials, respectively.

Special court judges will be appointed from candidates recommended by a panel of nine recommenders, three of them chosen by each of the National Assembly, the judge representative conference and the Korean Bar Association. In case of the Assembly, the Speaker selects recommenders after hearing opinions from the Democratic Party and the Rebuilding Korea Party, but not from the main opposition People Power Party. The Rebuilding Korea Party is a minor party once led by Cho Kuk, whom President Lee Jae Myung pardoned last month.

The very recommendation of judges by outsiders is unconstitutional. On top of that, the clause that excludes justices appointed by former President Yoon from the final third trial when insurrection cases are appealed to the Supreme Court is biased and partisan.

The National Court Administration under the Supreme Court said that the court has exclusive right to assign cases to judges and that it would violate judicial independence for the National Assembly and the Korean Bar Association to get involved in assigning judges to a certain case. It is absolutely right.

Organizing a special tribunal for insurrection is as good as politicians and lawyers picking judges to their taste. This would not only seriously violate judicial independence, but also trample down the separation of three powers.

In Korean history, special tribunal was formed on two occasions — one formed under a special committee to investigate collaborators with Japanese colonial rulers in 1948, three years after liberation, and the other set up to try those involved in the rigged presidential election held on March 15, 1960.

The political situation of today is not so revolutionary as those days. The special courts were based on the constitution of the time. The current constitution acknowledges only the military court as special court. Yet Jung Chung-rae, leader of the Democratic Party, said on Monday that the current situation is similar to the era of the post-liberation special committee to probe colonial collaborators. This is a far-fetched view.

The Democratic Party’s legislation drive for the setup of special tribunal was triggered by the court’s dismissal of the special counsel’s request for pre-trial detention of former Prime Minister Han Duck-soo on charges of abetting resurrection. The party is trying to meddle in the judicial system simply because the court did not make a decision it wanted. This is an arrogant response.

All three special counsels were recommended by the Democratic Party and the Rebuilding Korea Party, with the People Power Party sidelined. If the special tribunal is established, the ruling party will come under fire for tailoring both investigation and trial to its liking. There are also loud voices of concern that the special tribunal brings up the image of the people’s court. If the party acts obstinately as it pleases, it will face a strong headwind from the public.

OTHER VIEW

Longing for Uncle Herschel

Corporate marketing has gotten considerably more challenging in the culture-war era.

Julie Felss Masino, the embattled CEO of Cracker Barrel Old Country Store, found that out the hard way when she rolled out a new, more modernized logo, ditching the familiar old man — we’ll admit we didn’t know he had a name (“Uncle Herschel”) until the recent blowup — leaning against the barrel that had graced Cracker Barrel’s signage for ages.

When the culture warriors on America’s right discovered the plan to replace Uncle Herschel with a logo emblazoned simply with Cracker Barrel’s name in a slightly adjusted font (but with the same colors), they manned the barricades. Christopher Rufo, unofficial wokeism police officer of the Trump 2.0 era, called for the “breaking” of “the Barrel.”

In a post on X, Rufo said Cracker Barrel itself wasn’t what was important in this effort. It was to make

clear to corporate America that if you “go woke,” then “watch your stock price drop 20 percent.”

Masino wanted, understandably, to appeal to a new generation of customers. But Cracker Barrel, after a few days of hopeless and hapless insistence that customers actually liked the new look, faced up to reality and agreed Tuesday to at least bring back the old logo, especially after President Donald Trump, who views himself as the nation’s anti-woke police officer-in-chief, weighed in on behalf of Uncle Herschel.

So the culture warriors can declare victory, and surely they did make a difference in l’affaire Cracker Barrel. But at the end of the day, it’s a roadside restaurant chain we’re talking about. Our national identity doesn’t rise or fall on Cracker Barrel and Uncle Herschel, who in our imaginations would be embarrassed and chagrined at all the attention.

(Chicago Tribune/
Tribune Content Agency)

By Robert D. Atkinson

Korea is in a war with China for leadership in numerous key advanced industries, including shipbuilding, consumer electronics, semiconductors, automobiles, chemicals, steel, and batteries. Yet it is losing ground as Chinese firms continue to gain global market share while Korean firms cede it. Korea needs stronger domestic policies to shore up its advanced industries, such as restoring a robust investment tax credit and expanding its weak R&D tax credit. But without working with allies, Korea will not win this war. The United States, in particular, can play a pivotal role by limiting imports of Chinese advanced-technology products made through unfair and mercantilist practices.

Advanced industries operate differently than most sectors. Scale matters: The larger a producer’s global market share, the lower its cost structure and the more capital it can reinvest in the future. But it works both ways. Once leading firms lose global market share, their marginal costs rise as they continue to carry the burden of high fixed costs like factories and R&D. The result is that future investment declines, competitiveness erodes, and without some remedy, such as a breakthrough innovation, firms risk deep contraction or even collapse.

Korea’s display industry offers a cautionary example. Electronic displays have become foundational to the modern global digital economy, representing the key visual and tactile (via touchscreens) human interface for a wide variety of consumer electronics and a range of other applications, including televisions, computers, smartphones, vehicles, medical devices, and even refrigerators. They are also essential to national defense capabilities, from the heads-up displays in fighter jet cockpits to the combat information centers on navy ships.

The global display market was valued at \$182 billion in 2024 and is projected to more than double to \$372 billion market by 2034. Chinese enterprises used to be bit players in an industry dominated largely by Korean firms. In 2004,



ROBERT D. ATKINSON

China’s share of global liquid-crystal display production was 0 percent; today it accounts for 72 percent. China’s share of organic light-emitting diode production surged from 1 percent in 2014 to more than 50 percent, overtaking South Korean firms for the first time in early 2024 as the leading producer of OLED panels.

Beijing has poured massive government subsidies into its display industry, underscoring the importance of the sector to China’s overall industrial strategy. Those resources have allowed Chinese companies to sell at artificially low prices, flooding the market and making it difficult for foreign competitors — such as Korea’s Samsung and LG, which must earn market-based rates of return — to persist in the industry.

The result of China’s market-distorting approach has been brutal: In the LCD sector, most foreign competitors have either pulled out, Japanese companies stopped investing in the industry altogether around 2010, or decided not to enter the market in the first place. So, while Chinese display makers such as BOE, TCL, Tianma, and Visionox may have started behind top players like LG, Samsung Display, and Japan’s Sharp, they’ve quickly caught up.

Additionally, Chinese display makers are no longer just copycats competing on price. These companies are increasingly developing innovative products in their own right, gaining international recognition and winning prestigious awards. For example, TCL’s display subsidiary, China Star Optoelectronics Technology, won the Innovation Award for “MiniLED Display of the Year” at the 2023 Consumer Electronics Show. Meanwhile, BOE, the largest Chinese display manufacturer, has built some of the most sophisticated, automated manufacturing

facilities in the world and has amassed a massive patent portfolio, ranking among the world’s top 10 patent filers over the past six years.

China has clearly wrested leadership in the LCD industry away from foreign competitors and is poised to do the same in OLED. But its ascent rests heavily on unfair play. In fact, Beijing openly disregards the rules.

BOE received nearly \$4 billion in subsidies from 2010 to 2021, averaging \$325 million per year. In 2023, it secured \$532 million in subsidies, far exceeding its \$350 million profit that year. In addition to loans and grants, state support for Chinese display manufacturers takes many forms: tax breaks, discounted capital, free or low-cost land and utilities, and state-backed financing to hire foreign talent. Local governments, for instance, sometimes cover as much as 85 percent of the cost of new display facilities.

Chinese display producers have also benefited from extensive foreign intellectual property theft. In July 2023, Korea’s Supreme Court convicted executives and employees at Toptec, a key input supplier to the display industry, of leaking key technological assets to BOE. In July 2024, a former Samsung engineer was sentenced to six years in a South Korean prison for leaking \$24.5 million worth of display technology secrets to China. Last year, a US International Trade Commission administrative law judge ruled that certain Chinese displays infringed Samsung Display’s US patents relating to innovations in active-matrix organic light-emitting diode display technology. And now another ITC judge has determined that BOE stole trade secrets from Samsung to make OLED display products.

So why don’t Samsung and other firms take these grievances to the World Trade Organization? There are many reasons. To start, the WTO has a poor track record of prosecuting domestic subsidy and IP theft cases. Getting a positive ruling can take years, and even if a company wins, enforcement is often weak, meaning Chinese firms could simply continue to break the rules. As the global trading system is currently struc-

tured, there is no way to penalize China for its “innovation mercantilist practices.” The truth is simple: Beijing refuses to play by the rules.

That reality leaves the new Lee Jae-myung administration with two paths, both of which it should pursue. First, Seoul must strengthen its advanced-industry support policies, including those for the display sector. Korea once had an effective investment tax credit for new factories and equipment, which should be reinstated. Additionally, Korea’s R&D tax credit lags far behind the OECD average. The Lee administration and the National Assembly should quadruple it to bring Korea in line with peer nations.

These domestic measures are necessary, but they will not suffice alone. The Korean government is not large enough to counter China’s massive industrial power. It must work with allies facing similar challenges to restrict imports of Chinese goods produced through unfair means. The United States already has a legal and institutional mechanism for this: Section 337 of the US Tariff Act, which empowers companies to bring cases before ITC administrative law judges to block imports tied to IP theft and other mercantilist practices. Samsung is currently pursuing such a case against BOE, asserting IP theft. Korea does as well, through its Korean Trade Commission. It should open a similar investigation into BOE.

Ultimately, lasting impact will require a coordinated front. Exclusion orders will only work if the United States, Korea, the European Union, Japan, and all other advanced, democratic allies participate and adopt parallel measures. Only a coalition representing a large enough share of global market demand can ensure that firms obeying the rules survive. Building this cooperative effort should be a top priority for the 2026 G7 summit in France.

Robert D. Atkinson is president of the Information Technology and Innovation Foundation. The views expressed here are the writer’s own. — Ed.

were able to avert most conflicts through treaties, economic sanctions or threats of intervention.

After two catastrophic world wars, a new system of “collective security” evolved through the United Nations. Thanks to the nuclear balance of terror, big powers avoided major wars. When they got near the brink in the 1962 Cuban missile crisis, the United States and the Soviet Union negotiated mutual security guarantees — Russia pulled its nuclear missiles from Cuba in exchange for America’s pledge not to invade the island (and to secretly remove nuclear missiles from Turkey). The Dayton Accords that ended the Bosnia war in 1995 had a framework for security guarantees through a UN-backed peace-keeping force.

The strategist Fred Ikle wrote a brilliant little book called “Every War Must End,” during the agonizing final years of the Vietnam conflict. Two comments seem especially appropriate now. “Inflicting ‘punishment’ on the enemy is ... an ineffective strategy for ending a war,” Ikle cautioned. To end conflicts, he said, “nations on both sides tend to see a peace settlement that will bring greater and more lasting security than existed before the fighting broke out.”

If Russia chooses unwisely to fight on, then Europe and the United States should begin providing security guarantees for Ukraine now, not later. This isn’t chess. When a game is heading toward defeat, step away from the board.

David Ignatius writes a foreign affairs column for the Washington Post. The views expressed here are the writer’s own. — Ed.

(Washington Post Writers Group)

A way around the Russia-Ukraine deadlock

By David Ignatius

Chess players sometimes fall into a situation they call “zugzwang,” in which any move worsens their position. The impasse in the Ukraine peace talks feels like that. But unlike chess players, statesmen aren’t bound by rules. They can escape disaster.

Here’s the deadlock: Ukraine and its European supporters want a peace deal, perhaps freezing the current front line, so long as Kyiv gets “security guarantees” for the future. But Russia demands that the West first address “root causes” of the war, which amounts to its own version of a security guarantee.

President Donald Trump has tried to find an exit. But his attempts to mediate the conflict by ingratiating himself with Russian President Vladimir Putin have so far been a flop. He’s now considering walking away from negotiations, which would be a severe personal failure for him and a disaster for Ukraine and Europe. Meanwhile, the bloodbath continues.

Let’s think about ways out of this deadlock, building on the core question of guaranteeing security. It’s bizarre to talk about security as a future issue when both sides urgently need it now. Ukraine’s civilians are terrorized by drone and missile attacks. Russia has lost more than 1 million dead and wounded, and its economy is slowly bleeding dry. Russia is the aggressor, but its security matters, too.

One tough Western approach would be reciprocity. If Putin continues to attack cities and civilian infrastructure across Ukraine, then Kyiv’s allies would give it the means to respond in kind. The weapons are ready: Anglo-French Storm Shadow cruise missiles with a range of 155 miles (250 kilometers); German Taurus cruise

missiles with a 300-mile range; US ATACMS and Precision Strike ballistic missiles with ranges of 250 miles.

Trump bluntly stated the logic of matching Russia’s assault capability: “It is very hard, if not impossible, to win a war without attacking an invaders country. It’s like a great team in sports that has a fantastic defense, but is not allowed to play offense. There is no chance of winning!”

Trump is probably right. But realistically, he and European leaders seem unlikely to enable an all-out offensive on Moscow. A potent but more palatable alternative might be a defensive guarantee.

Ukraine’s allies could announce unilateral steps to limit the suffering in Ukraine if the war continues. I can imagine a range of military options — from a no-fly zone over Ukraine, to a rotating training and advisory force inside Ukraine, to new retaliatory capabilities if Russia keeps attacking civilians or energy infrastructure. These would be security guarantees — not for the future, but immediately.

A robust security guarantee, whenever it comes, will be enhanced by the Trump administration’s willingness to provide “strategic enablers,” including satellite intelligence and air defense.

The mere discussion of such options would make the Kremlin howl. Putin has asserted a right not just to attack Ukraine, but to limit how it responds. But let’s be honest. Russia has a right to be concerned about its security, as does every nation. A sensible approach to peace would invite Russia to present its list of desired security guarantees. That wouldn’t stop Ukraine’s allies from moving unilaterally to protect Ukraine’s population, by offensive or defensive means. But it makes sense to encourage Russia to join in a se-

curity discussion, even as the war continues.

Putin would surely demand as his first security guarantee that Ukraine stay out of NATO. Trump, for better or worse, has already signed off on that. I could accept it, too, so long as Kyiv gets “NATO-like” guarantees of its security, now and in the future. Putin might also insist on limiting NATO weapons inside Ukraine that can target Russia. That’s trickier. The issue should be reciprocity. Russia should agree to whatever limits it demands from Ukraine and NATO.

Russian Foreign Minister Sergei Lavrov last month proposed that negotiators return to what he described as a Ukrainian plan for mutual security guarantees that was floated in April 2022 in Istanbul, two months into the war, and then abandoned. “The Ukrainian proposal clearly meant that these guarantees would be equal ... that approach at that time ... was supported by the Russian side,” Lavrov said.

There are many potential snares in this approach, but Graham Allison, a professor at the Harvard Kennedy School, explains the rationale of reciprocal security guarantees. “Russians, even if paranoid, are concerned that Ukraine in NATO would be a threat to them. If we’re prepared to recognize that concern as part of mutual security arrangements between Russia, Ukraine and Europe, we might get beyond the current stalemate.”

Embracing what Allison calls “applied history,” we can see that security guarantees have helped stop wars for more than two centuries. An initial European framework was laid by the Congress of Vienna in 1815. The great nations sought a “balance of power,” and for nearly a century, diplomats