On South Korea’s Prosecutor General’s Retirement

The last text the author wrote about Yoon Seok-yol ended in his conditional victory: on Christmas Eve his main opponent, Justice Minister Choo Mi-ae, retired, whereas he himself remained as Prosecutor General, and the attempt to dismiss him failed. However, on March 4, 2021, Yoon himself resigned in protest of the processes taking place in law enforcement. What happened and what should we expect next?

At first the situation developed favorably for Yoon. On January 3, Yoon came in first place in a poll of potential presidential candidates. The new Justice Minister Park Beom-kye, appointed by Moon despite the opposition’s boycott, did not boycott his initiatives and was willing to meet with him and discuss his recommendations. Moon’s new Secretary of Civil Affairs, Shin Hyun-soo, was also an advocate, if not on his side, for the Blue House, the DOJ, and the prosecutors’ office to engage in constructive dialog. And even President Moon himself, at his New Year’s press conference on January 18, 2021, called Yoon “the prosecutor general of his administration”, as if forgetting an old one.

The Office of Senior Government Corrupt Practices began work on January 21, 2021, and the high-profile cases that Yoon oversaw were not referred to it. On February 25, its head Kim Jin-wook vowed to remain politically neutral and not give in to political pressure. However, on January 28, the Constitutional Court of ROK issued a verdict that the creation of this body does not contradict the Constitution and violates the value of separation of powers.

On January 28, 2021, the odious deputy Choi Kang-wook, who was the main initiator of the requests to prosecute
Yoon's relatives, received a suspended sentence for issuing fake training certificates to the son of former Justice Minister Cho Kuk. The term is short (8 months), but if the higher instances approve the sentence, Choi will lose his seat in parliament.

On February 9, 2021, Yoon was finally cleared of the charge that he had ordered illegal surveillance of judges hearing politically sensitive cases. The Seoul Supreme Prosecutors’ Office said it concluded that the abuse of power accusation against Yoon was unfounded. But former presidential special inspector Kim Tae-woo (the same one who started the surveillance scandal) also received a suspended sentence for divulging state secrets. On January 8, he was sentenced to one year in prison with a two-year suspended sentence for disclosure of state secrets, including suspected bribery involving South Korean Ambassador to Russia Woo Yoon-keun and “alleged” presidential administration surveillance of private citizens and companies. The court ruled that Kim leaked classified information on pro-ruling party figures and posed threats to state functions, such as personnel reshuffles and inspections, by inciting public doubts about the president's personnel rights and the presidential office's inspection team.

Then, the new Minister of Justice was formally more open and polite, but de facto did the same thing. In any case, during his February 1 staff reshuffle, none of the pro-government prosecutors who were stalling Yoon Seok-yeol’s work lost their positions, although Park and Yoon met twice to discuss the issue.

Lee Seong-yoon remains the head of the Seoul Central District prosecutor’s office, even though he was a major thorn in Yoon’s side, stalling and derailing landmark cases such as the investigation into the president’s alleged interference in the 2018 Ulsan mayoral election or the Choi Kang-wook case. Lee’s resignation for his blatant partisanship was demanded by his own subordinates, but Minister Park, according to the media, kept him in this key position in order to block the investigation of people from the president’s inner circle.

Shim Jae-cheol, the Justice Ministry’s Chief of Human Resources, who was the “motor” of anti-Yoon activities in the ministry and under Choo Mi-ae actively sought dirt on Yoon, was appointed head of the Seoul South District prosecutor’s office. Some high-profile cases that could hit the Moon regime are now under his jurisdiction.

It's worth noting that Secretary of Civil Affairs Shin Hyun-soo did not know about such games, or his opinion was ignored, as well as that of Yoon. After that, he first defiantly went on a four-day leave, and then he tendered his resignation. Although the Blue House confirmed and denied this fact (Moon allegedly did not want to accept the petition), Shin eventually left his post.

The opposition argues that the Shin incident is evidence of cracks in the management of state affairs and a weakening of control. As Chang Je-won, a member of the National Assembly's Legislation and Judiciary Committee, wrote on Facebook,

“The former justice minister fought with the prosecutor general and the new justice minister is fighting with a presidential aide. Now there are controversies about the President being ignored. Moon should tell the people what exactly went on behind the prosecution's personnel scandal and establish discipline within his administration by finding out who is manipulating state affairs.”

Then, while no one was officially bothering Yoon, his rating as a future president began to decline. In the previous KSOI poll conducted on January 22, Yoon scored 14.6%. At that time, its support level was steadily declining. With the mayoral elections in Seoul and Busan coming up on April 7, it was beginning to seem that public opinion would not care about the Prosecutor General.

But the main blow to Yoon came when the Democratic Party, enjoying an overwhelming majority in Parliament, decided to create a new agency that would report directly to the Minister of Justice and deal with “six grave crimes” including, among others, abuse of power, corruption, economic crimes, and election fraud. The prosecutors’ office will only have to file charges based on the material presented.

Behind the proposal to create a new investigative agency is a group of deputies whose relationship with Yoon is quite distinctive. One is the same Choi Kang-wook, another, Kim Nam-kuk, is a person involved in the case of illegally sponsoring mass rallies against Yoon, and the third, Hwang Un-ha, is the person directly involved in the Blue House interference in the Ulsan mayoral election and is a person involved in the criminal case.

The Democratic Party is said to have stepped up such efforts after prosecutors indicted former Energy Minister Paik Un-gyu, who was directly involved in deleting sensitive files about the government's plan to shut down the Wolseong-1 reactor as well as the alleged North Korean nuclear power plant construction plan. As the power plant began to
close after the president’s direct remarks on the matter, the Blue House, according to conservative media reports, was outraged.

The new law is going to be proposed in March and passed in June. Thus, the prosecutors’ office is effectively deprived of investigative powers, and Yoon is left “without his talons”. Moreover, the new law overrides the already passed Law on prosecutors’ office of 2020, where its powers were cut, but the six grave crimes remained, and this law was recognized even by Cho Kuk.

The project was criticized by both the prosecutors’ office and conservatives. First, the prosecutors’ office must have not only supervisory, but also investigative functions, and it is not clear who will hire the staff of the new agency and what will be the level of their professionalism.

And second, the law frankly shows how much the ruling party is flouting the laws it itself has passed in order to prevent investigations into the corruption of its own leaders and the president’s inner circle. It seems that the initiative does not come from the president himself, who urged not to rush things. Speaking before the National Assembly's Legislation and Judiciary Committee, the Minister of Justice claimed that the President had ordered him not to insist on the creation of a special investigative body that would take away from the prosecution the right to investigate six major crimes, and he tried not to comment on the matter later.

However, a group of stained lawmakers are advocating that the prosecutors’ office be “stripped” before Moon is no longer president. If the prosecutors’ office retains the power to investigate corruption and abuses of power, many lawmakers under investigation or subject to investigation will live in fear after Moon resigns.

Of course, Yoon was fiercely critical of the bill. On March 2, in an interview with Kookmin Daily, he said that “taking investigative power away from the prosecution amounts to regression of democracy and destruction of the spirits of the Constitution”. That this move as being “tantamount to give extraterritorial rights to those in power” and to “being a rough-and-ready step for legislation that will destroy the 70-year-old criminal law system, let alone the prosecution service”. “The only choice left is to implore the public,” he said, asking the people to “watch out how the issue plays out so that the ruling party does not make any hasty legislative actions.”

On March 3, Yoon visited the Daegu Prosecutors Office and talked to reporters on the way: creating such an agency “violates the spirits of the Constitution and is tantamount to a failure of a nation and the government to fulfill the Constitutional duty” and taking away investigative powers from the prosecution will only lead to a situation where corruption becomes more rampant. The Prosecutor General repeated his position that separating powers of investigation and prosecution is not reasonable, because it could interfere with effective and just law enforcement and potentially benefit only the establishment and do more harm than good to the socially disadvantaged.

Asked if he would stake his position as prosecutor general to stop the plan, he said: “It is hard to answer that question now.”

The Blue House expressed dissatisfaction: the prosecutors’ office was urged to respect the National Assembly and to express itself in accordance with proper procedures. Prime Minister Chung Sye-kyun pointed out that the government was doing its best to protect constitutional values and democracy, and in an interview with the media generally noted that “Yoon's behavior is not fitting for someone in an administrative capacity.”

It is alleged that Chung Sye-kyun said he would recommend to President Moon Jae-in that Yoon resign, and Yoon left early to avoid being “dismissed due to loss of trust.”

In any case, on March 4, Yoon Seok-yeol announced his resignation in protest against the removal of investigative powers from the prosecutors’ office.

Chung Sye-kyun called Yoon’s resignation offer unexpected and very unfortunate.

President Moon Jae-in quickly accepted Yoon’s resignation, and as early as March 8, 2021, called on the state prosecution service to earn public trust, saying the separation of its rights to investigate crimes and indict suspects is necessary to reform the prosecution. From the perspective of some conservatives, this is how he showed his true face by outplaying the Prosecutor General in complex hardware games. Whether Yoon is gone or not, without him the prosecutors’ office is unlikely to dig so intensively into the high-profile cases that have been the source of constant scandalous news that hit Moon Jae-in’s image.

Where will Yoon Seok-yeol go now? From the author’s point of view, he has no other choice but to enter politics,
especially since his rating as a potential president soared again after his resignation. On March 8, the Korean Public Opinion Institute reported that 32.4% of respondents supported him as a potential presidential candidate.

Another Realmeter poll, however, showed that people were divided over whether it was appropriate for a former prosecutor to become a politician. 48% gave a positive rating, while 46.3% gave a negative. Rumor has it that this is how Democrats are preparing public opinion for a constitutional amendment that would ban former judges and prosecutors from entering politics.

Yoon himself has not yet made any comment about his candidacy for president, but opposition parties are letting him know that he might join them, implicitly expressing the hope that his political debut might provoke a realignment of the power structure in their favor. It is worth remembering, however, that Yoon’s lack of political experience and the fact that he is not popular among ultra-conservatives may hinder his possible ambitions. So we will be watching with interest how the fate of the potential leader of the ROK, representing the “third force,” will play out.

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